AGREEMENT

BETWEEN

THE CREES OF EEYOU ISTCHEE

AND

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

CONCERNING

THE EEYOU MARINE REGION

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PARTIES TO THE AGREEMENT

BETWEEN: The **CREES OF EEYOU ISTCHEE,** as represented by the Grand Council of the Crees (Eeyou Istchee)

AND: **HER MAJESTY THE QUEEN IN RIGHT OF CANADA**

PREAMBLE

WHEREAS the Crees of Eeyou Istchee assert aboriginal rights and title to the Eeyou Marine Region;

AND WHEREAS the Eeyou Marine Region is a fundamental and integral component of Eeyou Istchee;

AND WHEREAS the Crees of Eeyou Istchee are an aboriginal people of Canada;

AND WHEREAS the *Constitution Act, 1982* recognizes and affirms the existing aboriginal and treaty rights of the aboriginal peoples of Canada;

AND WHEREAS the Parties agree on the desirability of negotiating a treaty with respect to the Eeyou Marine Region;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

PART I GENERAL

CHAPTER 1
DEFINITIONS

« Contingent de base ajusté » "***Adjusted Basic Needs Level***" means the level of Harvesting by Crees identified in section 13.7;

« Accord » "***Agreement***" means the Eeyou Marine Region Land Claims Agreement or "EMRLCA", and includes this entire Agreement with its Preamble, maps and Schedules;

« Aquaculture » "***Aquaculture***" means the culture, propagation, keeping in captivity or husbandry of Wildlife of the freshwater or marine environment;

« Arbitrage » "***Arbitration***" means the arbitration process established pursuant to Part B of Chapter 31;

« Arbitres » "***Arbitrators***" means the arbitrators named or appointed under Part B of Chapter 31;

« Site archéologique » "***Archaeological Site***" means a site or work within the EMR of archaeological, ethnographical or historical importance, interest or significance or a place where an archaeological specimen, as defined in subsection 26.1.1, is found, and includes explorers' cairns;

« Vérificateur général » "***Auditor General***" means the Auditor-General of Canada;

« Contingent de base » "***Basic Needs Level***" means the level of Harvesting by Crees identified in section 13.6;

« Canada » "***Canada***" means Her Majesty the Queen in Right of Canada;

« Consulter » ou « Consultation » "***Consult***" or "***Consultation***" means:

a) the provision, to the party to be consulted, of notice of a matter to be decided in a manner that allows that party to effectively assess the matter and to prepare advice on the matter;

b) the provision of a reasonable period of time in which the party to be consulted may prepare its advice on the matter, and provision of an opportunity to present such advice to the party obligated to consult;

c) full and fair consideration by the party obligated to consult on any advice presented; and

d) the provision of written reasons within a reasonable period of time by the party obligated to consult for any advice that is rejected or varied;

« Cri » ou « Cris »

"***Cree***" or "***Crees***" means an individual or individuals enrolled or eligible to be enrolled as a Cree beneficiary or Cree beneficiaries pursuant to paragraphs 3.2.1, 3.2.2 and 3.2.3 of Section 3 of the James Bay and Northern Québec Agreement as may be amended or replaced from time to time;

« Bande crie »

"***Cree Band***" means a Cree Band incorporated under the *Cree-Naskapi (of Québec) Act*, S.C. 1984, c. 18, or any successor Legislation and, until the incorporation of Oujé-Bougoumou as a Cree Band under the said Act, the Oujé-Bougoumou Eenuch Association;

« Entreprise crie »

"***Cree Enterprise***" means a Cree Band, or any Cree Entity, or any unincorporated business owned by a Cree as well as any corporation in which one (1) or more Crees, Cree Bands or Cree Entities hold more than fifty percent (50%) of the voting shares or a sufficient participation to appoint the majority of directors, as well as any partnership, joint venture, non-profit corporation or other enterprise or legal entity in which one (1) or more Crees or Cree Bands or Cree Entities hold a controlling interest;

« Entité crie »

"***Cree Entity***" means any of the Grand Council of the Crees (Eeyou Istchee), the Cree Regional Authority incorporated under the *Act concerning the Cree Regional Authority*, R.S.Q., c. A-6.1, the Cree Bands, the Cree Villages established under the *Cree Villages and the Naskapi Village Act*, R.S.Q., c. V-5.1, the Cree Landholding Corporations created under the *Act Respecting the Land Regime in the James Bay and New Québec Territories*, R.S.Q., c. 13.1, the James Bay Eeyou Corporation incorporated under the *Act respecting the James Bay Eeyou Corporation*, R.S.Q., c. S-16.1, the Cree Development Corporation established pursuant to *An Act to ensure the Implementation of the Agreement concerning a New Relationship Between le Gouvernement du Québec and the Crees of Québec*, S.Q. 2002, c. 25, the Recipient of Funding under the meaning of the Agreement Concerning a New Relationship Between le Gouvernement du Québec and the Crees of Québec, O.C. 289-2002 and O.C. 507-2002, G.O. of May 22, 2002, p. 2447 and ff., the Opimiskow Companee, the Sakami Eeyou Corporation, the Oujé-Bougoumou Development Corporation, the Cree Trappers' Association, the Cree Outfitting and Tourism Association created pursuant to subsection 28.6 of the JBNQA, the Cree Native Arts and Crafts Association created pursuant to subsection 28.7 of the JBNQA, as well as any other Cree controlled

corporation, enterprise or legal entity referred to in the JBNQA or any other agreement between Canada or Québec and any Cree Band, the Grand Council of the Crees (Eeyou Istchee) or the Cree Regional Authority;

« Entente relative à la région extracôtière de chevauchement Cris/Inuit »

"***Cree/Inuit Offshore Overlap Agreement***" or "***Consolidated Agreement Relating to the Cree/Inuit Offshore Overlapping Interests Area Between the Crees of Eeyou Istchee and the Nunavik Inuit***" means the agreement referred to in Chapter 30 and appended as Schedule 30-1 of this Agreement;

« Région extracôtière de chevauchement des intérêts cris et inuit »

"***Cree/Inuit Offshore Overlapping Interests Area***" or "***Overlap Area***" means those areas described in the Cree/Inuit Offshore Overlap Agreement;

« Terres des cris »

"***Cree Lands***" means lands, so long as they are vested in a GDO, that are identified pursuant to Chapter 5, and lands that are acquired or re-acquired by a GDO from time to time pursuant to this Agreement;

« Cris d'Eeyou Istchee »

"***Crees of Eeyou Istchee***" means the Crees;

« Association des trappeurs cris » ou « ATC »

"***Cree Trappers' Association***" or "***CTA***" means the regional hunters, trappers and fishermen association created pursuant to subsection 28.5 of the JBNQA;

« Zone des cris »

"***Cree Zone***" means those areas described in the Cree/Inuit Offshore Overlap Agreement;

« Terres de la Couronne »

"***Crown Lands***" means land(s) belonging to Canada or in respect of which Government has the power of disposition, and includes Marine Areas;

« Eeyou Istchee »

"***Eeyou Istchee***" means the Eeyou Marine Region and the regions defined in paragraphs 24.13.2, 24.13.4 and 24.13.6 of the JBNQA;

Région marine d'Eeyou » ou « RME »

"***Eeyou Marine Region***" or "***EMR***" means that area described in Chapter 4;

« Commission de la région marine d'Eeyou chargée de l'examen des répercussions » ou « CRMEER »

"***Eeyou Marine Region Impact Review Board***" or "***EMRIRB***" means the institution established pursuant to Chapter 18;

« Commission d'aménagement de la région marine d'Eeyou » ou « CARME »

"***Eeyou Marine Region Planning Commission***" or "***EMRPC***" means the institution established pursuant to Chapter 8;

« Conseil de gestion des ressources fauniques de la région marine d'Eeyou » ou « CGRFRME »

"***Eeyou Marine Region Wildlife Board***" or "***EMRWB***" means the institution established pursuant to Chapter 13;

"Date d'entrée en vigueur du présent accord"

"***Effective Date of this Agreement***" means the date on which the federal ratification act has come into force;

"Environnement"

"***Environment***" means the components of the earth and includes:

a) land, water and air, including all layers of the atmosphere;

b) all organic and inorganic matter and living organisms;

c) the social, economic, recreational, cultural and aesthetic conditions and factors that influence the life of humans and communities; and

any part or combination of the components referred to in paragraphs a), b) and c) and the interrelationships between two or more of them;

"Conseil exécutif"

"***Executive Council***" means the Executive Council of Nunavut or any successor body;

Indice implicite de prix de la demande intérieure finale » ou « IIPDIF »

"***Final Domestic Demand Implicit Price Index***" or "***FDDIPI***" means the Final Domestic Demand Implicit Price Index for Canada, published regularly by Statistics Canada;

"Gouvernement"

"***Government***" means the government of Canada or the government of Nunavut or both, as the context requires, depending on their jurisdiction and the subject matter referred to, or else determined pursuant to section 2.20;

« Organisme(s) désigné(s) par le Grand Conseil des Cris (Eeyou Istchee) » ou « ODG »

"***Grand Council of the Crees (Eeyou Istchee) Designated Organization***" or "***GDO***" means the GCC(EI) or an organization designated by the GCC(EI) pursuant to Chapter 28;

« Grand Conseil des Cris (Eeyou Istchee) » ou « GCC(EI) »

"***Grand Council of the Crees (Eeyou Istchee)***" or "***GCC(EI)***" means the Corporation representing the Crees of Eeyou Istchee and signatory to the James Bay and Northern Québec Agreement or any successor thereto;

« Récolte » ou « Récolter »

"***Harvest***" or "***Harvesting***" means the reduction of Wildlife into possession, and includes hunting, trapping, fishing as defined in the *Fisheries Act*, R.S.C. 1985, c. F-14, netting, egging, picking, collecting, gathering, spearing, killing, capturing or taking by any means;

« Zone de la Baie d'Hudson »

"***Hudson Bay Zone***" means those waters of James Bay and Hudson Bay that are not part of the Eeyou Marine Region or another land claim settlement area;

« Entente sur les répercussions et les avantages » ou « ERA »

"***Impact and Benefit Agreement***" or "***IBA***" means an agreement entered into pursuant to Chapter 19 of this Agreement;

« Comité de mise en œuvre »

"***Implementation Committee***" means the committee established pursuant to section 25.4;

« Entente internationale sur les ressources fauniques »

"***International Agreement Concerning Wildlife***" means a wildlife agreement between the government of Canada and one (1) or more foreign states or associations of foreign states;

« Inuit du Nunavik »

"***Inuit of Nunavik***" or "***Nunavik Inuit***" means a person or persons enrolled or eligible to be enrolled as an Inuit beneficiary or Inuit beneficiaries under the James Bay and Northern Québec Agreement;

« Inuit de Nunavut »

"***Inuit of Nunavut***" means "*Inuit*" as defined in section 1.1.1 of the Nunavut Land Claims Agreement;

« Zone Inuit »

"***Inuit Zone***" means those areas described in the Cree/Inuit Offshore Overlap Agreement;

« Convention de la Baie James et du Nord québécois » ou « CBJNQ »

"***James Bay and Northern Québec Agreement***" or "***JBNQA***" means the Agreement approved, given effect and declared valid by the *James Bay and Northern Québec Native Claims Settlement Act*, S.C. 1976-77, c. 32 and the *Act approving the Agreement concerning James Bay and Northern Québec*, S.Q. 1976, c. 46;

« Zone conjointe Inuit/Cris » ou « Zone conjointe »

"***Joint Inuit/Cree Zone***" or "***Joint Zone***" means those areas described in the Cree/Inuit Offshore Overlap Agreement;

« Terre » ou « Terres »

"***Land***" or "***Lands***" means land, including land covered by Water, and the Minerals in or on land;

« Lois d'application générale »

"***Laws of General Application***" means all laws of general application according to common law definition;

« Législation »

"***Legislation***" means an act or Regulation;

« Association locale de trappeurs cris locris » ou « ATC locale »

"***Local Cree Trappers' Association***" or "***Local CTA***" means local Cree hunters, trappers and fishermen association established or designated by the Cree Trappers' Association;

« Société Makivik » ou « Makivik »

"***Makivik Corporation***" or "***Makivik***" means the corporation representing Nunavik Inuit and created by virtue of *An Act Respecting the Makivik Corporation*, S.Q. 1978, c. 91;

« Organismes désignés par Makivik » ou « ODM »

"***Makivik Designated Organization(s)" or "MDO(s)***" means an organization or organizations referred to in Article 22 of the Nunavik Inuit Land Claims Agreement;

« Zones marines »

"***Marine Areas***" means that part of Canada's internal waters or territorial sea, whether open or ice-covered, lying within the EMR, but does not include inland waters. For greater certainty, the reference to internal waters or territorial sea includes the Seawater, seabed, subsoil and Minerals below those internal waters or territorial sea;

« Zone de protection marine »

"Marine Protected Area" means a marine protected area established in the EMR in accordance with the *Oceans Act*, S.C. 1996, c. 31 as amended from time to time;

« Ressources marines »

"***Marine Resources***" means organic and inorganic resources, including Land, water and ice, located in, on or under the EMR and includes Wildlife inhabiting the EMR on a permanent, temporary or seasonal basis;

« Espèces marines »

"***Marine Species***" means fish and includes parts of fish, shellfish, crustaceans or marine animals, and the eggs, sperm, spawn, larvae, spat and juvenile stages of fish, shellfish, crustaceans and marine animals;

« Refuge d'oiseaux migrateurs »

"***Migratory Bird Sanctuary***" means an area described in the Schedule to the *Migratory Bird Sanctuary Regulations*, C.R.C., c. 1036 of the *Migratory Birds Convention Act*, S.C. 1994, c. 22.

« Minéraux »

"***Minerals***" means all precious and base metals and other non-living, naturally occurring substances whether solid, liquid or gaseous, excluding water, but including coal, gas, Oil, gold and silver;

« Ministre »

"***Minister***" means a minister of the government of Canada or a member of the Executive Council of the government of Nunavut appointed as minister, as the context requires, responsible for the subject matters referred to;

« Lieu historique national du Canada »

"***National Historic Site of Canada***" refers to a historic place of national historic interest or significance which has been designated by the Minister responsible for the Parks Canada Agency in accordance with the *Historic Sites and Monuments Act*, R.S., 1985, c. H-4 as a National Historic Site of Canada.

« Aire marine nationale de conservation »

"***National Marine Conservation Area***" means an area that has been set aside as a National Marine Conservation Area under the *Canada National Marine Conservation Areas Act*, S.C. 2002, c. 18;

« Réserve à vocation d'Aire marine nationale de conservation »

"***National Marine Conservation Area Reserve***" means an area that has been set aside as a reserve for a National Marine Conservation Area under the *Canada National Marine Conservation Areas Act*, S.C. 2002, c. 18;

« Parc national »

"***National Park***" means an area that has been set aside as a National Park under the *Canada National Parks Act*, S.C. 2000, c. 32;

« Réserve à vocation de parc national »

"***National Park Reserve***" means an area that has been set aside as a reserve for a National Park under the *Canada National Parks Act*;

« Réserve nationale de faune »

"***National Wildlife Area***" means a wildlife area described in the schedule to the *Wildlife Area Regulations*, C.R.C., c. 1609 of the *Canada Wildlife Act*, R.S., 1985, c.W-9.

« Limite non quantitative »

"***Non-quota Limitation***" means a limitation of any kind, except a Total Allowable Take, and may include a limitation on season of Harvest, sex of Wildlife, size of Wildlife, age of Wildlife or method of Harvest;

« Accord sur les revendications territoriales des Inuit du Nunavik » ou « ARTIN »

"***Nunavik Inuit Land Claims Agreement***" or "***NILCA***" means the land claims agreement between the Nunavik Inuit and Her Majesty the Queen in Right of Canada given effect by the *Nunavik Inuit Land Claims Agreement Act*, S.C. 2008, c. 2;

« Région marine d'Eeyou » ou « RME »

"***Nunavik Marine Region***" or "***NMR***" means the area described in Article 3 of the Nunavik Inuit Land Claims Agreement;

« Commission de la région marine du Nunavik chargée de l'examen des répercussions » ou « CRMNER »

"***Nunavik Marine Region Impact Review Board***" or "***NMRIRB***" means the institution established pursuant to Article 7 of the Nunavik Inuit Land Claims Agreement;

« Commission d'aménagement de la region marine du Nunavik »

"***Nunavik Marine Region Planning Commission***" or "***NMRPC***" means the institution established pursuant to Article 6 of the Nunavik Inuit Land Claims Agreement;

« Nunavut »

"***Nunavut***" means the territory known as Nunavut and as defined in the *Nunavut Act*, S.C. 1993, c. 28 as it reads on the Effective Date of this Agreement.

« Commission du Nanavut chargé de l'examen des repercussions » ou « CRMNER »

"***Nunavut Impact Review Board***" or "***NIRB***" means the institution established pursuant to Article 12 of the Nunavut Land Claims Agreement;

« Accord sur les revendications territoriales du Nunavut »

"***Nunavut Land Claims Agreement***" means the land claims agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada, given effect by the *Nunavut Land Claims Agreement Act*, S.C. 1993, c. 29;

« Commission d'aménagement du Nunavut » ou « CAN »

"***Nunavut Planning Commission*** or ***"NPC"*** means the institution established pursuant to Article 11 of the Nunavut Land Claims Agreement;

« Office des eaux du Nunavut »

"***Nunavut Water Board"*** means the institution established pursuant to Article 13 of the Nunavut Land Claims Agreement;

« Pétrole »

"***Oil***" means crude oil regardless of gravity, produced at a well head in liquid form and any other hydrocarbons except coal and gas and without limiting the generality of the foregoing, hydrocarbons that may be extracted or recovered from deposits or oil sands, bitumen, bituminous sand, oil shale, or from any other types of deposits on the surface or subsurface, or the seabed or its subsoil;

« Parties »

"Parties" means the GCC(EI) and Canada;

« Personne »

"***Person***" includes an individual, a partnership, a corporation, a trust, a foundation, a fund, an unincorporated association, a Government or any other government, or any agency or political subdivision of a Government or of any other government, a Cree Band or other Cree Entity and their respective heirs, administrators and other legal representatives;

« Proposition de projet »

"***Project Proposal***" means a physical work that a proponent proposes to construct, operate, modify, decommission, abandon or otherwise carry out, or a physical activity that a proponent proposes to undertake or otherwise carry out, such work or activity being within the EMR, except as provided in 18.11.1;

« Aire protégée »

"***Protected Area***" means any of the following areas, other than a Marine Protected Area, when established in the EMR under Legislation:

a) National Marine Conservation Areas;

b) National Marine Conservation Area Reserves;

c) National Parks;

d) National Park Reserves;

e) National Historic Sites of Canada when owned and administered by Parks Canada Agency;

f) Territorial Parks;

g) Migratory Bird Sanctuaries;

h) National Wildlife Areas including protected marine areas; and

i) other areas of particular significance for ecological, cultural, archaeological, research and similar reasons.

« Entente sur les répercussions et les avantages relative à une Aire protégée » ou « ERAAP »

"***Protected Area Impact and Benefit Agreement***" or "***PAIBA***" means an agreement entered into pursuant to section 6.4 of this Agreement.

« Règlement »

"***Regulation***" means an order, regulation, order-in-council, order prescribing regulations, rule, rule of court, form, tariff of costs or fees, letters patent, commission, warrant, proclamation, by-law, resolution or other instrument issued, made or established: a) in the execution of a power conferred by or under the authority of an act; or b) by or under the authority of the Governor in Council or Executive Council;

« Ressource » ou « Ressources »

"***Resource***" or "***Resources***" means natural resources including Lands, Minerals, Wildlife, Water and the environment generally;

« Redevance liée à l'exploitation des ressources »

"***Resource Royalty***" means any share of production whether in money or kind paid or payable to Government, as owner prior to production, in respect of a Resource produced by a Person from Crown Lands in or under the Eeyou Marine Region, but does not include:

a) any payment for a service, the creation of special purpose funds, the issuance of the right or interests or the granting of an approval or authorization;

b) any payment required regardless of ownership of the Resource;

c) any payment for incentives; or

d) for greater certainty, any payment to Government as owner or part owner of the produced Resource;

« Eau de mer »

"***Seawater***" means the waters and the ice in James Bay and Hudson Bay;

« Parc territorial »

"***Territorial Park***" means an area in Nunavut established or re-designated as a park pursuant to the *Nunavut Territorial Parks Act*, R.S.N.W.T. 1988, c. T-4, as duplicated for Nunavut pursuant to section 29 of the *Nunavut Act*, S.C. 1993, c. 28;

«Laisse »

"***Tidelands***" means the lands between the lines of the ordinary high and low tides that are covered and uncovered successively by the ebb and flow of normal tides;

« Prise totale autorisée »

"***Total Allowable Take***" for a species, stock or population of Wildlife, means an amount of Wildlife able to be lawfully Harvested as established by the EMRWB pursuant to section 13.5;

« Camp traditionnel »

"***Traditional Camp***" means a camp occupied by one (1) or more Crees who occupy the particular location on a temporary, seasonal, intermittent, semi-permanent or a year-round basis for the purposes of Harvesting;

« Eau »

"***Water***" means waters in any river, stream, lake or other body of inland waters, on the surface or underground in the Eeyou Marine Region, and includes all inland ground waters and ice;

« Ressources fauniques »

"***Wildlife***" means all terrestrial, aquatic, avian and amphibian flora and fauna ferae naturae, and all parts and products thereof.

CHAPTER 2

GENERAL PROVISIONS

Status of this Agreement

2.1 This Agreement is a treaty within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.

2.2 Nothing in this Agreement shall:

a) be construed so as to deny that the Crees are an aboriginal people of Canada;

b) be construed so as to deny that the Crees are "*Indians*" within the meaning of section 91(24) of the *Constitution Act, 1867*;

c) affect the ability of the Crees to participate in or benefit from any existing or future constitutional rights for the Crees or aboriginal people generally that may be applicable to them;

d) affect the ability of the Crees to participate in international fora;

e) affect the ability of the Crees to benefit from international agreements to which Canada is a party concerning aboriginal (indigenous) peoples, that are applicable to them;

f) affect government programs and funding, and the obligations of the federal, provincial and territorial governments, which shall continue to apply to the Crees on the same basis as to other aboriginal peoples subject to the general criteria established from time to time for the application of such programs;

g) affect the rights of the Crees as Canadian citizens and they shall continue to be entitled to all the rights and benefits of all other citizens applicable to them from time to time;

h) affect the rights and benefits of the Crees under the *Cree-Naskapi (of Québec) Act;* or

i) affect the rights and benefits of the Crees contained in the James Bay and Northern Québec Agreement.

Interpretation

2.3 This Agreement, including the Preamble and any Schedule referred to in this Agreement, shall be read together and interpreted as one (1) agreement. For greater certainty, the Preamble and Schedules of this Agreement shall form an integral part thereof.

2.4 All headings are for convenience of reference only and form no part of this Agreement.

2.5 This Agreement shall be the entire agreement between the Parties concerning the subject matters there dealt with and there is no representation, warranty, collateral agreement or condition affecting this Agreement except as expressed in it.

2.6 If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, the Parties shall make best efforts to amend this Agreement to remedy the invalidity or to replace the invalid provision.

2.7 Neither Party to this Agreement shall have a claim or cause of action based on a finding that any provision of this Agreement is invalid.

2.8 Neither Party shall challenge the validity of any provision of this Agreement.

2.9 Subject to sections 2.10 and 2.11, all federal and territorial Legislation shall apply in the EMR.

2.10 Where there is any inconsistency or conflict between any Legislation and this Agreement, this Agreement shall prevail to the extent of the inconsistency or conflict.

2.11 Where there is any inconsistency or conflict between the Legislation ratifying and implementing this Agreement and any other Legislation, the ratifying and implementing Legislation shall prevail to the extent of the inconsistency or conflict.

2.12 This Agreement shall be governed by and construed in accordance with the law applicable in the EMR. For greater certainty, the *Interpretation Act*, R.S.C. 1985, c. I-21, shall apply to this Agreement.

2.13 Citation of Legislation refers to Legislation and successor Legislation as amended from time to time:

a) except where the Parties have provided otherwise; and

b) for greater certainty, reference to the *Constitution Act, 1867* and the *Constitution Act, 1982* includes the 1983 amendments and any later amendments.

2.14 Where this Agreement requires a Person to negotiate a matter, that Person shall negotiate in good faith.

Coming Into Force

2.15 This Agreement shall come into force upon its ratification by Canada and the Crees in accordance with the ratification provisions set out in Chapter 32 of this Agreement.

2.16 Ratification of this Agreement by both Canada and the Crees is a condition precedent to the validity of this Agreement and, in the absence of such ratification, this Agreement shall be null and void and of no force and effect.

2.17 Government shall, in Consultation with the GCC(EI), prepare any Legislation required to implement this Agreement, including any amendments thereto.

Amendments

2.18 Amendments to this Agreement shall require the consent of the Parties as evidenced by:

a) in respect of Canada, an order of the Governor in Council, and

b) in respect of the Crees, a resolution of the board of directors of the Grand Council of the Crees (Eeyou Istchee).

Transfer of Authority

2.19 Any power vested in a Minister of Canada or in a Minister of the Executive Council of Nunavut, pursuant to the provisions of this Agreement, may be transferred to another Minister of Canada, or to another Minister of the Executive Council of Nunavut, respectively. The GCC(EI) shall be given notice in regard to such transfer.

2.20 Nothing in this Agreement shall restrict the authority of Canada to devolve or transfer powers or jurisdiction to another government, or to the GCC(EI) or a GDO, provided that the devolution or transfer shall not abrogate or derogate from any rights of the Crees in this Agreement. This section shall not be interpreted as affecting the fiduciary relationship between the Crown and the Crees.

2.21 Without diminishing or otherwise altering the responsibilities of Canada under this Agreement, where this Agreement does not identify a particular person or body responsible for exercising a function of Government, the Governor in Council, in the case of Canada, and the Executive Council, in the case of Nunavut, may designate a person or body to exercise that function on its behalf or authorize a Minister to make such a designation. The GCC(EI) shall be given notice of such designation.

2.22 Subject to sections 2.20 and 2.21, and except as otherwise provided in this Agreement, a Party to this Agreement shall not directly or indirectly assign or otherwise transfer any right or obligation with respect to this Agreement without the prior written consent of the other Party.

Certainty

2.23 This Agreement constitutes the full and final settlement in respect of the aboriginal rights, including the aboriginal title, of the Crees of Eeyou Istchee with respect to the use and ownership of lands and Resources in Nunavut and in the area comprising Hudson Bay and James Bay.

2.24 The provisions of this Agreement do not affect any aboriginal rights, including rights to self-government, that the Crees of Eeyou Istchee may have, to the extent that those rights do not relate to or affect the use and ownership of lands or Resources in Nunavut and in the area comprising Hudson Bay and James Bay.

2.25 This Agreement exhaustively sets out the rights, whether modified or not, of the Crees of Eeyou Istchee in Nunavut and in the area comprising Hudson Bay and James Bay recognized by section 35 of the *Constitution Act, 1982* with respect to the use and ownership of lands and Resources, including the geographic extent of those rights as well as the attributes and the limitations to those rights which the Parties have agreed.

2.26 Notwithstanding the common law, as a result of this Agreement and the ratification act, the aboriginal rights, including aboriginal title, of the Crees of Eeyou Istchee with respect to the use and ownership of lands and Resources, as they existed in Nunavut and the area comprising Hudson Bay and James Bay before the Effective Date of this Agreement, including their attributes, limitations and geographic extent, are

a) to the extent they are identical to the rights set out in this Agreement, including all their attributes, limitations and the geographic description of the rights set out in this Agreement, continued as aboriginal rights as set out in this Agreement, and

b) to the extent that they differ, from the rights set out in this Agreement, including all the attributes, limitations and geographic description of the rights set out in this Agreement, modified and continue only as set out in this Agreement.

2.27 For greater certainty, the aboriginal title of the Crees of Eeyou Istchee in Nunavut and the area comprising Hudson Bay and James Bay as it existed before the Effective Date of this Agreement is modified to the extent that it, including its attributes, limitations and geographic extent, differs from Cree title in Cree Lands as set out in this Agreement.

2.28 The purpose of section 2.26 is to ensure that as of the Effective Date of this Agreement and with respect to the use and ownership of lands and Resources in Nunavut and in the area comprising Hudson Bay and James Bay:

a) the Crees of Eeyou Istchee have and can exercise their rights pursuant to section 35 of the *Constitution Act, 1982* as set out in this Agreement, including their geographic extent and their attributes and the limitations to those rights to which the Parties have agreed;

b) Canada and all other Persons can exercise their rights, authorities, jurisdictions and privileges in a manner consistent with the rights of the Crees of Eeyou Istchee pursuant to section 35 of the *Constitution Act, 1982* as set out in this Agreement; and

c) Canada and all other Persons do not have any obligations in regard to any aboriginal rights, including aboriginal title, of the Crees of Eeyou Istchee with respect to the use or ownership of lands or Resources in Nunavut or in the area comprising Hudson Bay or James Bay to the extent that those rights might be in any way different in attributes, limitations or geographic extent from the rights, including their attributes, limitations or geographic extent, of the Crees of Eeyou Istchee pursuant to section 35 of the *Constitution Act, 1982* set out in this Agreement.

2.29 An unmodified aboriginal right of the Crees of Eeyou Istchee set out in this Agreement shall have the same legal status and effect as a modified right set out in this Agreement.

2.30 The Crees of Eeyou Istchee release Canada and all other Persons from all claims, demands, actions or proceedings, of whatever kind, whether known or unknown, that the Crees of Eeyou Istchee ever had, now have or may have in the future, relating to or arising from

any act or omission before the Effective Date of this Agreement that may have affected, interfered with or infringed any aboriginal right of the Crees of Eeyou Istchee with respect to the use or ownership of lands or Resources in Nunavut or in the area comprising Hudson Bay or James Bay.

2.31 For greater certainty, this Agreement does not affect the rights and recourses of Crees in respect to personal injury claims for physical or psychological harm and resulting damages attributable to contaminants or the discharge of pollutants in Nunavut or in the area comprising Hudson Bay or James Bay before the Effective Date of this Agreement, providing such claims are not based on aboriginal rights.

2.32 The Crees of Eeyou Istchee will indemnify and forever save harmless Government from any and all damages, costs (excluding fees and disbursements of solicitors and other professional advisors and experts), losses or liabilities, that Government may suffer or incur in connection with or as a result of any suit, action, cause of action, claim, proceeding or demand relating to or arising from:

a) the existence of an aboriginal right of the Crees of Eeyou Istchee in respect to the use or ownership of lands or Resources in Nunavut or in the area comprising Hudson Bay or James Bay that is determined to be other than, or different in attributes, limitations or geographical extent from, the rights of the Crees of Eeyou Istchee under section 35 of the *Constitution Act, 1982* set out in this Agreement; or

b) any act or omission by Government before the Effective Date of this Agreement that may have affected, interfered with or infringed any aboriginal right of the Crees of Eeyou Istchee with respect to the use or ownership of lands or Resources in Nunavut or in the area comprising Hudson Bay or James Bay.

2.33 Government represents and warrants that as of the Effective Date of this Agreement, Government has not been notified of nor has Government any knowledge of any judicial proceeding which may give rise to an indemnity under section 2.32 of this Agreement.

2.34 If, after the Effective Date of this Agreement, Government becomes subject to a suit, action, cause of action, claim, proceeding or demand which may give rise to an indemnity under section 2.32 of this Agreement, it is a condition precedent for the application of such an indemnity provision that Government:

a) notify in writing the GCC(EI), or the GDO designated for such purposes by the GCC(EI), within a reasonable delay from the receipt by Government of any such suit, action, cause of action, claim, proceeding or demand;

b) diligently defend the suit, action, cause of action, claim, proceeding or demand and pursue any appeal or judicial review in relation thereto unless the GCC(EI), or the GDO designated for such purposes by the GCC(EI), agrees otherwise; and

c) not settle or compromise the suit, action, cause of action, claim, proceeding or demand except with the consent of the GCC(EI) or of the GDO designated for such purposes by the GCC(EI), which consent will not be arbitrarily or unreasonably withheld or delayed;

2.35 The GCC(EI), or the GDO designated for such purposes by the GCC(EI), shall have the right to participate as a party to any suit, action, cause of action, claim, proceeding or demand, including any appeal, referred to in section 2.34.

2.36 For greater certainty, Government and the GCC(EI), or the GDO designated for such purposes by the GCC(EI), reserve their rights to raise any argument of fact or of law and use any procedural or other legal means in order to diligently defend or deal with any such suit, action, cause of action, claim, proceeding or demand.

Municipalities

2.37 Government shall not extend the boundaries of an existing municipality or create any municipalities in the EMR without the consent of the GCC(EI).

Judicial and Other Proceedings

2.38 Where a Cree or a GDO has a right of action in relation to this Agreement, the GCC(EI) or a GDO may bring such action on behalf of such Cree or other GDO. This section shall not preclude a Cree or a GDO from commencing an action on his or her own behalf or on behalf of others in relation to this Agreement.

2.39 If in any judicial or administrative proceeding a question is raised respecting the interpretation, validity or application of this Agreement, the act referred to in section 32.7 or federal or territorial Legislation enacted for purposes of implementing this Agreement, the question shall not be heard until reasonable prior notice has been given to the GCC(EI) and to Government.

2.40 Government, the GCC(EI) or any GDO designated for this purpose by the GCC(EI), is entitled as of right to be heard with respect to a question referred to in section 2.39 and shall be considered a party to the judicial or administrative proceedings for the purpose of an appeal from an adjudication as to such question or for the purpose of a judicial review of the legal proceedings or an order or decision made in the judicial or administrative proceedings.

2.41 For the purposes of sections 2.39 and 2.40, judicial or administrative proceedings include any civil, criminal or regulatory proceeding or inquiry in which evidence is or may be given, and include an arbitration and a proceeding before a board, commission or tribunal.

2.42 The Parties agree to submit any dispute that a Party may raise regarding the application, interpretation or implementation of this Agreement to the dispute resolution process set out in Part A of Chapter 31 and failing that, subject to Part B of Chapter 31, to the Federal Court of Canada.

2.43 Subject to section 2.42, the Nunavut Court of Justice shall have jurisdiction in respect of any action or proceeding arising out of this Agreement and the Court shall be empowered to physically convene in Quebec to hear such actions or proceedings. Further, the Nunavut Court of Justice shall be empowered to exercise and perform, in Quebec, all the powers, duties and functions of the Court with respect to such a civil case. Nothing in this Agreement

shall be construed to limit any jurisdiction the Federal Court of Canada may have from time to time.

2.44 The Nunavut Court of Justice shall be empowered to physically convene in Eeyou Istchee to hear the matter of any Cree charged with a federal or territorial offence committed or charged to have been committed in the EMR. More specifically, in such case and in regard to such offence or charge:

a) such judge, when sitting within Eeyou Istchee under this section, has and may exercise and perform all the powers, duties and functions of the Nunavut Court of Justice;

b) the provisions of subsections 35(2) and (3) of the *Nunavut Act*, S.C. 1993, c. 28, as they read on the Effective Date of this Agreement shall apply to proceedings under this section; and

c) the provisions of paragraph 18.0.23 of the JBNQA regarding the right to interpreters and of translation in the Cree language shall apply to proceedings under this section.

2.45 Where there are public hearings conducted by or for Government, or by or for a public body of Government, in a Cree community on a matter affecting a Cree interest in the EMR, a Cree participant in such public hearings has a right to the translation and interpretation of those hearings in the Cree language at the expense of Government.

Public Services in the EMR

2.46 Policing and search and rescue services, health and social services, education services and income security programs may be provided in the EMR (excluding the Inuit Zone) by institutions, boards or entities contemplated by the JBNQA.

Signs and Postings

2.47 All signs and postings from Government in the EMR shall be in the Cree language. The Cree language shall be at least as prominently displayed as any other language used in such signs and postings.

Periodic Review

2.48 The Parties recognize and acknowledge that this Agreement provides a foundation for an ongoing relationship between the Parties in regard to the EMR and commit to conducting a periodic review of this Agreement in accordance with sections 2.49 to 2.56.

2.49 At least sixty (60) days before the tenth (10^{th}) anniversary of the Effective Date of this Agreement and every tenth (10^{th}) anniversary thereafter, a Party may provide the other Party with notice if it wishes to discuss a matter contemplated by section 2.50. The Parties shall provide a copy of such notice to the government of Nunavut.

2.50 The purpose of the periodic review is to provide an opportunity for the Parties to meet and discuss:

a) the practicability of processes established by the Parties in accordance with this Agreement;

b) other matters in respect of the implementation of the provisions of this Agreement as the Parties may agree in writing; and

c) any other matter of interest to Government or the GCC(EI) arising from this Agreement.

2.51 Unless the Parties agree otherwise, the periodic review discussions will not exceed six (6) months, and within sixty (60) days of the end of that discussion, each Party will provide the other Party with its response on any matter discussed during that period.

2.52 The periodic review contemplated herein and all discussions and information relating to the matters of the periodic review are without prejudice to the respective legal positions of the Parties, unless the Parties otherwise agree, and nothing made or done in respect of a

periodic review, including the discussions or the response provided by the Parties, except for the amendments made pursuant to section 2.18, creates any legally binding rights or obligations.

2.53 Except for the Parties' commitment to meet and provide responses as described in section 2.51, neither the periodic review process contemplated herein, nor the decisions and actions of the Parties relating in any way to the periodic review process are:

a) subject to the Dispute Resolution Processes set out in Chapter 31; or

b) reviewable by a court or in any other forum.

2.54 For greater certainty, the Parties are not required to agree to amend this Agreement or any agreement contemplated by this Agreement as a result of the periodic review contemplated herein.

2.55 Where the Parties agree to amend this Agreement, any such amendment will be made in accordance with section 2.18. Where the Parties agree to amend an agreement contemplated by this Agreement it will be amended in accordance with its terms.

2.56 Each Party will be responsible for its own costs in relation to the periodic review process.

CHAPTER 3

ELIGIBILITY AND ENROLMENT

3.1 Any person who is a Cree shall be automatically enrolled as a beneficiary under this Agreement.

CHAPTER 4

EEYOU MARINE REGION

4.1 The Eeyou Marine Region which, for greater certainty includes the Overlap Area, is that offshore area adjacent to but not in Québec described in Schedule 4-1 and shown on the map contained in Schedule 4-1A.

4.2 In the event of a discrepancy between the descriptions of Schedule 4-1 and the map of Schedule 4-1A, Schedule 4-1 shall prevail.

4.3 For greater certainty, all coordinates are in reference to the North American Datum 1927 (NAD 27).

4.4 For greater certainty, the Crees of Eeyou Istchee shall enjoy additional rights to areas outside the EMR as provided by other provisions of this Agreement.

SCHEDULE 4-1

GEOGRAPHIC COORDINATES OF THE EEYOU MARINE REGION (EMR)

The Eeyou Marine Region, as illustrated on Schedule 4-1A, includes all the Marine Areas, islands, Lands and Waters within the following boundary:

1. Commencing at the Ontario-Québec boundary, as defined in *An Act respecting the north-western, northern and north-eastern boundaries of the province of Quebec*, Can. 61, Vict. c. 3, near Chiyask Bay at approximate 51°27'40" N latitude and approximate 79°31'05" W longitude;

2. thence northwesterly following the geodesic line to the intersection of 51°47'00" N latitude and 80°00'00" W longitude, southwest of Charlton Island;

3. thence northwesterly following the geodesic line to the intersection of 52°45'00" N latitude and 80°30'00" W longitude, east of Akimiski Island;

4. thence northwesterly following the geodesic line to a point at the intersection of 54°30' N latitude and 81°20' W longitude, northwest of Bear Island, being a point coincident with point 4 described in Schedule 1, Geographic Coordinates of the Cree/Inuit Offshore Overlapping Interests Area, of the Cree/Inuit Offshore Overlap Agreement, appended as Schedule 30-1;

5. thence northeasterly following the geodesic line to a point at the intersection of 55°00' N latitude and 81°00' W longitude, east of Cape Henrietta Maria, Ontario, being a point coincident with the Nunavut Settlement Area (NSA), as defined in the Nunavut Land Claims Agreement;

6. thence east, coincident with the NSA, following 55°00' N latitude to a point at the intersection with 79°45' W longitude, north of Long Island;

7. thence northeasterly, coincident with the NSA, to a point at the intersection of 55°15' N latitude and 79°00' W longitude, northeast of Long Island and southwest of Kuujjuaraapik and Whapmagoostui, Québec;

8. thence northeasterly, coincident with the NSA, to a point at the intersection of 55°45' N latitude and 78°00' W longitude, northwest of Kuujjuaraapik and Whapmagoostui, Québec;

9. thence northeasterly, coincident with the NSA, to a point at the intersection of 56°00' N latitude and 77°30' W longitude, east of Innetalling Island and northwest of Duck Island;

10. thence northeasterly, coincident with the NSA, to a point at the intersection of 56°22' N latitude and 77°25' W longitude, east of the Salliquit Islands and west of the Nastapoka Islands;

11. thence north following 77°25' W longitude, coincident with the NSA, to a point at the intersection of 57°00' N latitude;

12. thence northwesterly, coincident with the NSA, to a point at the intersection of 57°40' N latitude and 78°00' W longitude;

13. thence north following 78°00' W longitude to a point at the intersection of 57°47'56" N latitude, being a point coincident with point 13 described in Schedule 1, Geographic Coordinates of the Cree/Inuit Offshore Overlapping Interests Area, of the Cree/Inuit Offshore Overlap Agreement, appended as Schedule 30-1;

14. thence east following 57°47'56" N latitude, passing approximately one (1) kilometer north of Cotter Island, as illustrated on Schedule 1c of the Cree/Inuit Offshore Overlap Agreement, appended as Schedule 30-1, to a point at the intersection with the boundary of Québec at approximate 76°58'45" W longitude, being a point coincident with point 14 described in Schedule 1, Geographic Coordinates of the Cree/Inuit Offshore Overlapping Interests Area, appended as Schedule 30-1;

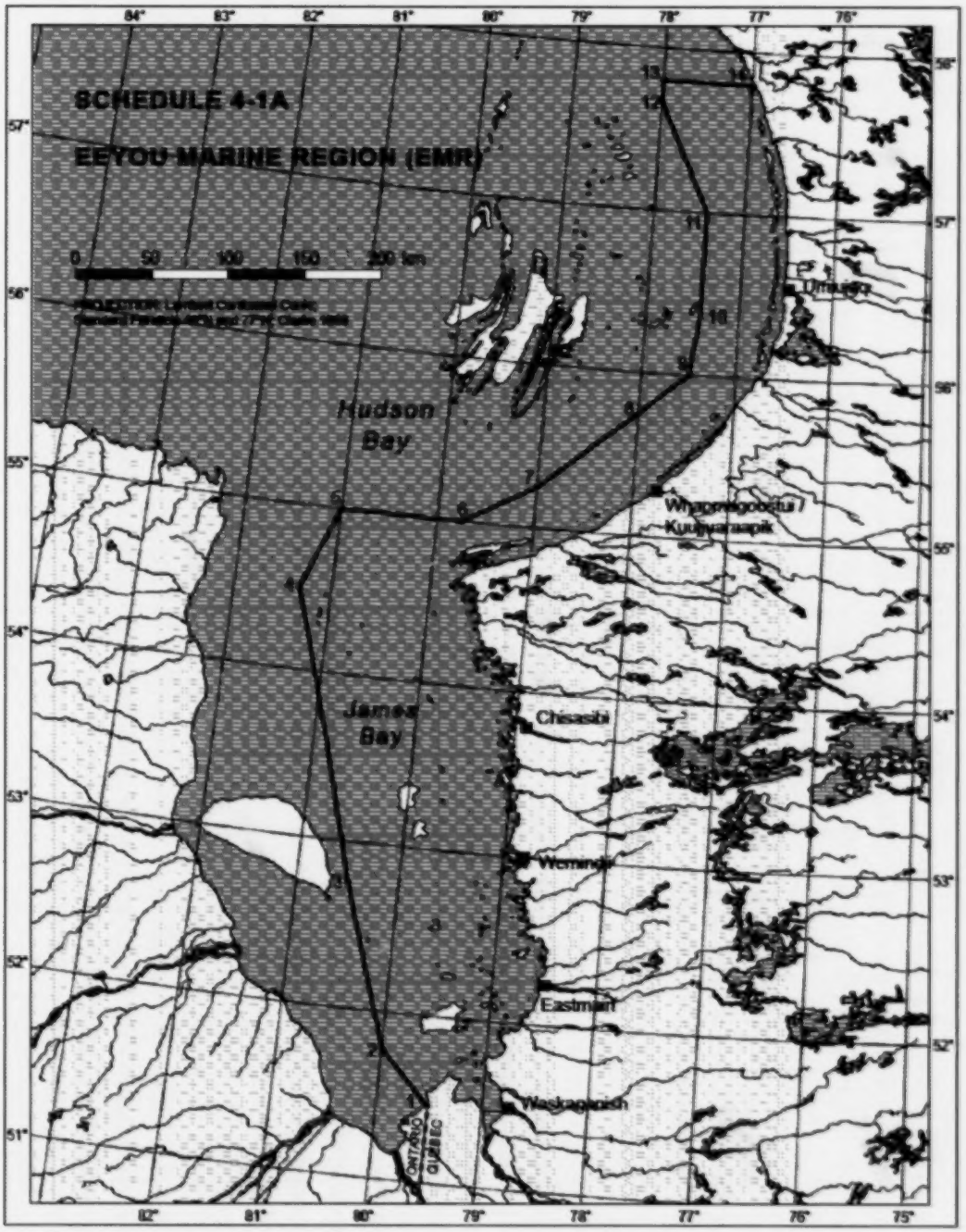
thence in a general southerly direction following the boundary of Québec to the point of commencement.

NOTE:

Where topographic descriptions conflict with geographic coordinates, the topographic descriptions reflect the intention of the Parties, and shall prevail. When the map attached conflicts with the geographic coordinates or topographic descriptions, the geographic coordinates or topographic descriptions reflect the intent of the Parties and shall prevail. All coordinates are in reference to North American Datum 1927(NAD 27).

SCHEDULE 4-1A

EEYOU MARINE REGION (EMR)



CHAPTER 5
CREE LANDS

5.1 Definitions

5.1.1 In this chapter:

« Lit » "***Bed***" of a body of water means the Land covered so long by water as to wrest it from vegetation or as to mark a distinct character upon the vegetation where it extends into the water or upon the soil itself;

« Site contaminé » "***Contaminated Site***" means a site where a Person has abandoned or disposed of substances of such a nature and in such a manner, quantity or concentration that the substances constitute or are likely to constitute a danger to human life or to the Environment;

« Bureau des titres de bien-fonds » "***Land Titles Office***" means the office of the Registrar in Nunavut;

« Limite naturelle » "***Natural Boundary***" means a boundary described in relation to the position of a natural feature;

« Ligne des hautes eaux ordinaires » ou « berge » "***Ordinary High Water Mark***" or "***Bank***" of a body of water means the limit or edge of its Bed;

« Registrateur » "***Registrar***" means "Registrar of Land Titles" as defined in the *Land Titles Act*, R.S.N.W.T. 1988, c. 8 as duplicated for Nunavut pursuant to section 29 of the *Nunavut Act*, S.C. 1993, c. 28;

« Arpenteur général » "***Surveyor General***" means the Surveyor General of Canada Lands appointed in the manner authorized by law or a Person authorized by the Minister of Natural Resources Canada to carry out any or all of the duties of the Surveyor General;

5.2 Cree Lands

5.2.1 Cree Lands shall include:

a) any Lands in the EMR identified as Cree Lands as provided in Schedule 5-1 to this chapter;

b) any Lands jointly owned with the Nunavik Inuit within the Joint Inuit/Cree Zone of the EMR as provided in Schedule 5-2;

c) any replacement Lands provided in accordance with section 7.4; and

d) where Government agrees, Lands acquired by a GDO or a MDO in the EMR. The consent of Government cannot be unreasonably withheld.

5.3 Nature of Title

5.3.1 Title to Cree Lands shall include:

a) all Lands described in Schedule 5-1 and Schedule 5-2 above the Ordinary High Water Mark without Crown reservations but, for greater certainty, shall exclude the Tidelands and the seabed;

b) the Beds of rivers, streams, lakes and other bodies of water above the Tidelands;

c) the mines and Minerals that may be found to exist within, upon or under Cree Lands;

d) the strip of land one hundred (100) feet in width, measured from the Ordinary High Water Mark or from the boundary line which, absent this provision, would be reserved to the Crown pursuant to section 13 of the *Territorial Lands Act,* R.S.C., 1985, c. T-7; and

e) for greater certainty Cree Lands shall include the exclusive use and enjoyment of any lakes, rivers, streams or any other bodies of water within or flowing through Cree Lands.

5.3.2 Title vested pursuant to subsection 5.5.1 may be referred to as "Cree title".

5.3.3 Cree title is deemed to be held in the form of fee simple title. The form of title shall not be construed as having the effect of extinguishing or affecting any rights recognized and affirmed by section 35 of the *Constitution Act, 1982* of:

a) the Crees in the EMR, and

b) the Nunavik Inuit in the Cree / Inuit Overlap Area.

5.3.4 For greater certainty, Cree Lands shall be held for and on behalf of all Crees and not for an individual Cree or individual Cree Band.

5.4 Disposition of Interests

5.4.1 Cree Lands shall not be conveyed, transferred or otherwise disposed of by the GDO except to another GDO or to Canada.

5.4.2 Subsection 5.4.1 shall not be construed as preventing the grant by the GDO, for a term of seventy-five (75) year duration or less, of leases, licences or any other interest less than fee simple title in or over Cree Lands or any portion or parcel thereof.

5.4.3 No Person may acquire any estate or interest in Cree Lands by prescription, adverse possession or limitation of action.

5.4.4 Cree title in Cree Lands is not subject to mortgage, attachment, charge, seizure, distress, execution or sale.

5.4.5 In addition to the provisions of section 5.4, any disposition of Lands identified in Schedule 5-2 (Joint Zone) is subject to section 5.7 of the Cree/Inuit Offshore Overlap Agreement.

5.5 Vesting of Cree Lands Upon Effective Date of this Agreement

5.5.1 On the Effective Date of this Agreement, title to Cree Lands excluding Lands referred to in Schedule 5-1 shall vest in the GDO. The Lands identified in Schedule 5-2 shall vest in the MDO and the GDO.

5.5.2 On the Effective Date of this Agreement, Government shall deliver to the Registrar an original signed copy of this Agreement and notification that title to Cree Lands has been vested in accordance with subsection 5.5.1.

5.5.3 At the delivery of a copy of this Agreement and notification to the Registrar pursuant to subsection 5.5.2, the Registrar shall treat the notification as if it were letters patent in favour of the GDO or jointly with the MDO, as the case may be, even if there is no plan of survey.

5.5.4 After the delivery of a copy of this Agreement in accordance with subsection 5.5.2, upon receipt of the notification pursuant to that section, the Registrar shall, in the ordinary course of operations, and without charge, record the vesting of title in accordance with subsection 5.5.1 and shall issue certificates of title in the form set out in Schedule 5-3 to this chapter.

5.6 Indemnification of Registrar

5.6.1 Canada shall indemnify the Registrar, the government of Nunavut, or the latter's agents or employees for any liability arising directly or indirectly as a result of the inability of the Registrar to require a survey prior to recording the vesting of title in accordance with subsection 5.5.4.

5.6.2 Absent negligence by the Registrar, Canada shall indemnify the Registrar, the government of Nunavut, or the latter's agents or employees for any liability arising directly or indirectly from the issuance of a certificate of title where the liability arises as a result of Lands not being within the jurisdiction of the Registrar.

5.7 Property Descriptions, Surveys and Boundaries

5.7.1 Boundaries or part of the boundaries of Cree Lands may for any purpose be surveyed at Government's discretion. The boundaries of Cree Lands abutting third party interests as listed in Schedule 5-4 and on South Twin Island shall be surveyed by Government within two (2) years of the Effective Date of this Agreement.

5.7.2 Government shall be responsible for the cost of each legal survey that is conducted pursuant to subsection 5.7.1 provided that this provision shall not prevent Government from levying charges in respect of such surveys on any third party which is not a MDO whose Lands abut Cree Lands.

5.7.3 Each boundary survey conducted pursuant to subsection 5.7.1 shall be conducted in accordance with the instructions of the Surveyor General pursuant to the *Canada Lands Surveys Act*, R.S. 1985, c. L-6, as if the Lands were still Canada Lands.

5.7.4 Where a legal survey is completed for any boundary or any part of a boundary of Cree Lands, the plan of survey, when signed by the GDO, the MDO, if applicable, and Government and delivered to

the Registrar, shall become the property description for that boundary or that part, replacing any previous property description of that boundary or that part, effective as of the Effective Date of this Agreement.

5.7.5 Government shall not be responsible for the costs of surveys associated with the leasing or subdivision of Cree Lands.

5.7.6 The GDO may parcel out one (1) or more areas of Cree Lands by way of a survey, descriptive plan or similar process. The Registrar shall, in the ordinary course of operations and without charge, record such parcel or area of Cree Lands and issue therefore a separate certificate of title to the GDO in the form set out in Schedule 5-3 to this chapter, and shall thereafter record without charge any interest granted therein by the GDO.

5.7.7 A notice to the Registrar from a GDO in which title to Cree Lands is vested that another GDO has full authority in respect of those Lands shall be dealt with in all respects as if it were a grant of title from the former GDO to the other GDO, and the Registrar shall, within thirty (30) days and without charge, issue a new certificate of title in the name of the other GDO in the form set out in Schedule 5-3 to this chapter.

5.7.8 Subject to subsection 5.7.4, where a survey of Cree Lands is being conducted and where the location of any boundary of Cree Lands is found to be unclear, the Surveyor General shall have the authority to define the location of the intended boundary by placing a series of monuments or other means.

5.7.9 Natural Boundaries of Cree Lands along tidal waters shall be located at the Ordinary High Water Mark of those tidal waters, unless otherwise indicated in Schedule 5-2 and Schedule 5-3 or in an official plan of survey.

5.7.10 Notwithstanding subsections 5.7.1 and 5.7.4, and for greater certainty, Natural Boundaries of Cree Lands shall move with the various natural processes of erosion and accretion, including isostatic rebound of coastal areas, and any other natural movement of the natural feature in relation to which the boundary is described that is gradual and imperceptible from moment to moment.

5.8 Contaminated Sites

5.8.1 Where Government undertakes any program respecting the clean-up of Contaminated Sites on Crown Lands in the EMR, the program shall apply to such sites on Cree Lands that are listed in Schedule 5-5 of this chapter as if the Lands were Crown Lands. Government shall notify the GDO of any such program.

5.8.2 After the Effective Date of this Agreement, the Parties may agree that a site not listed in Schedule 5-5 was a Contaminated Site on the Effective Date of this Agreement and, upon consent of the Parties, the list in Schedule 5-5 shall be considered to have been amended to include that site.

5.8.3 Any dispute as to whether a Contaminated Site existed on the Effective Date of this Agreement may be referred by a Party for resolution in accordance with Chapter 31. If a dispute goes to Arbitration in accordance with Chapter 31 and if the Arbitrators confirm that a site existed on the Effective Date of this Agreement, the list in Schedule 5-5 shall be considered to have been amended to include that site.

5.8.4 Government shall be responsible for the costs associated with any clean-up under subsection 5.8.1 on Cree Lands. This provision shall not prevent Government from recovering from the Person responsible for the contamination any costs associated with the clean-up of Cree Lands under subsection 5.8.1.

5.8.5 There shall be no compensation payable for damage which may be caused to Cree Lands as a result of the clean-up of Cree Lands under subsection 5.8.1.

5.8.6 Government shall not be liable for any loss or damage to Crees, or a GDO from Contaminated Sites on Cree Lands whether or not they are known on the Effective Date of this Agreement. This provision does not affect any obligation of Government under subsections 5.8.1 and 5.8.4.

5.8.7 If Government completes the clean-up of Contaminated Sites on Bear Island or Grey Goose Island, the GDO may request that Canada designate such island or islands as Cree Lands, in exchange for a transfer by the GDO to Canada of Lands of equivalent size jointly selected by Canada and the GDO. The Lands so transferred by the GDO to Canada shall become Crown

Lands. Canada shall give fair consideration to any such request by the GDO.

5.9 Cree Water Rights

5.9.1 The GDO shall have the exclusive right to the use of Water on, in or flowing through Cree Lands.

5.9.2 The GDO shall have the right to have Water flow through Cree Lands substantially unaffected in quality, quantity and flow.

5.9.3 The impoundment of Seawater in the EMR may not be carried out by any Person without the consent of the GDO.

SCHEDULE 5-1

EEYOU MARINE REGION (EMR) CREE ZONE

As per this Agreement, the Cree/Inuit Offshore Overlap Agreement, appended as Schedule 30-1, and the Nunavut Settlement Area (NSA) as defined in the Nunavut Land Claims Agreement, the EMR Cree Zone, as illustrated in Schedule 5-1A, includes all the Marine Areas, islands, Lands and Water and Seawater within the following boundary:

1. Commencing at the Ontario-Québec boundary, as defined in *An Act respecting the north-western, northern and north-eastern boundaries of the province of Québec*, Can. 61, Vict. c. 3, near Chiyask Bay at approximate 51°27'40" N latitude and approximate 79°31'05" W longitude;

2. thence northwesterly following the geodesic line to the intersection of 51°47'00" N latitude and 80°00'00" W longitude, southwest of Charlton Island;

3. thence northwesterly following the geodesic line to the intersection of 52°45'00" N latitude and 80°30'00" W longitude, east of Akimiski Island;

4. thence northwesterly following the geodesic line to a point at the intersection of 54°30' N latitude and 81°20' W longitude, northwest of Bear Island, being a point coincident with point 4 described in Schedule 1, Geographic Coordinates of the Cree/Inuit Offshore Overlapping Interests Area, of the Cree/Inuit Offshore Overlap Agreement appended as Schedule 30-1;

5. thence northeasterly following the geodesic line to a point at the intersection of 55°00' N latitude and 81°00' W longitude, east of Cape Henrietta Maria, Ontario, being a point coincident with the NSA as defined in the Nunavut Land Claims Agreement, for greater certainty being also point 5 of Schedule 1 of the Cree/Inuit Offshore Overlap Agreement appended as Schedule 30-1;

6. thence east, coincident with the NSA, following 55°00' N latitude to a point at the intersection with 80°00' W longitude, northwest of Long Island, being point 3 of Schedule 2 of the Cree/Inuit Offshore Overlap Agreement appended as Schedule 30-1;

7. thence south along 80°00' W longitude to the intersection of 54°46' N latitude, southwest of Long Island, being point 2 of Schedule 2 of the Cree/Inuit Offshore Overlap Agreement appended as Schedule 30-1;

8. thence southeasterly, as illustrated on Schedule 2b of the Cree/Inuit Offshore Overlap Agreement appended as Schedule 30-1, following the geodesic line to a point on the boundary of Québec at the northwestern tip of Cape Jones (locally known as Aahaashaakaach Akuminaan

Aanaayaach / Tikiraujaaraaluk) northeast of Pointe Louis XIV at approximate 54°38'55" N latitude and approximate 79°45'00" W longitude; being point 1 of Schedule 2 of the Cree/Inuit Offshore Overlap Agreement;

thence generally southerly following the boundary of Québec to the point of commencement.

Subject to Chapter 5 and in accordance with Schedule 30-1, all EMR Cree Zone Lands, are Cree Lands, less the following:

A. Grass Island (locally known as Aamishkushiiunikaach) of which the centre is located at approximately 53°47'50" N latitude and 79°06'40" W longitude; and

B. the Lands bounded within the following coordinates:

1. 53°50'06" N Latitude and 79°07'59" W Longitude;
2. 53°50'13" N Latitude and 79°04'11" W Longitude;
3. 53°49'46" N Latitude and 79°04'27" W Longitude;
4. 53°49'40" N Latitude and 79°05'00" W Longitude;
5. 53°49'25" N Latitude and 79°05'35" W Longitude;
6. 53°49'31" N Latitude and 79°07'20" W Longitude;
7. 53°49'49" N Latitude and 79°08'00" W Longitude;

For greater certainty, included within the bounded area are the following named islands:

Governor Island: the centre of which is located at approximately 53°49'45" N latitude and 79°06'00" W longitude (locally known as Uchimaauminishtikw);

Sam Island: the centre of which is located at approximately 53°50'00" N Latitude and 79°06'00" W Longitude; and

Seal Islands: the centre of which is located at approximately 53°49'45" N latitude and 79°07'30" W longitude (locally known as Aahchikuminishtikw).

C. Bear Island, of which the centre is located at approximately 54°30' N latitude and 81°06' W longitude;

D. Grey Goose Island, of which the centre is located at approximately 53°54'00" N latitude and 79°53'24" W longitude;

E. North Twin Island, of which the centre is located at approximately 53°18'36" N latitude and 80°00'00" W longitude;

F. South Twin Island Crown parcel, subject to survey and as illustrated on Schedule 5-1b, is approximated by the following:

1. Commencing at the Ordinary High Water Mark at approximate 53°07'23" N latitude and 79°49'31" W longitude;

2. thence southwesterly, to a height of land, at approximate 53°07'03" N latitude and 79°51'09" W longitude;

3. thence southwesterly, to a height of land, at approximate 53°06'52" N latitude and 79°52'01" W longitude;

4. thence northwesterly to the Ordinary High Water Mark at approximate 53°08'26" N latitude and 79°54'17" W longitude;

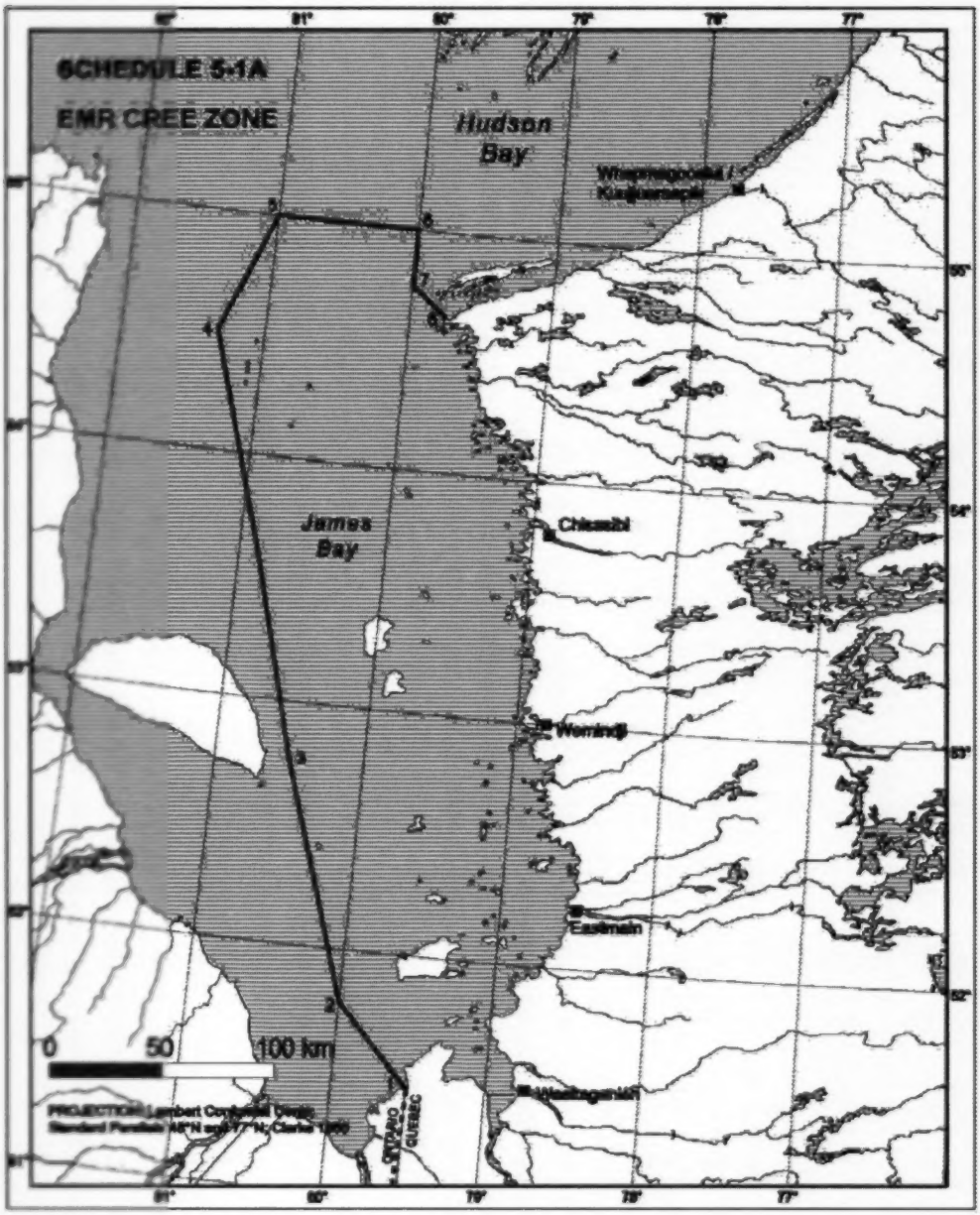
5. thence, generally northerly and southerly following the Ordinary High Water Mark to the point of commencement.

NOTES:

Where topographic descriptions conflict with geographic coordinates, the topographic descriptions reflect the intention of the Parties, and shall prevail. When the maps attached conflict with the geographic coordinates or topographic descriptions, the geographic coordinates or topographic descriptions reflect the intent of the Parties and shall prevail. All coordinates are in reference to North American Datum 1927 (NAD 27), except for coordinates in F above and those illustrated on Schedule 5-1B that are in reference to NAD 83.

SCHEDULE 5-1A

EEYOU MARINE REGION (EMR) CREE ZONE



SCHEDULE 5-1B

SOUTH TWIN ISLAND CROWN PARCEL

SCHEDULE 5-2

EEYOU MARINE REGION (EMR) JOINT ZONE

As per this Agreement, the Cree/Inuit Offshore Overlap Agreement, appended as Schedule 30-1, and the Nunavut Settlement Area (NSA) as defined in the Nunavut Land Claims Agreement, the EMR Joint Zone, as illustrated on Schedule 5-2A, includes all the Marine Areas, islands, Lands and Water and Seawater within the following boundary:

1. Commencing, as illustrated on Schedule 2b of the Cree/Inuit Offshore Overlap Agreement appended as Schedule 30-1, on the boundary of Québec at the northwestern tip of Cape Jones (locally known as Aahaashaakaach Akuminaan Aanaayaach / Tikiraujaaraaluk) northeast of Pointe Louis XIV at approximate 54°38'55" N latitude and approximate 79°45' 00" W longitude, being point 1 of Schedule 2 of the Cree/Inuit Offshore Overlap Agreement appended as Schedule 30-1;

2. thence northwesterly following the geodesic line to a point at the intersection of 54°46' N latitude and 80°00' W longitude, southwest of Long Island, being point 2 of Schedule 2 of the Cree/Inuit Offshore Overlap Agreement appended as Schedule 30-1;

3. thence north following 80°00' W longitude to a point at the intersection of 55°00' N latitude, northwest of Long Island, being point 3 of Schedule 2 of the Cree / Inuit Offshore Overlap Agreement appended as Schedule 30-1 being also coincident with the NSA;

4. thence east, coincident with the NSA, following 55°00' N latitude to a point at the intersection with 79°45' W longitude, north of Long Island, being also point 6 of Schedule 1 of the Cree/Inuit Offshore Overlap Agreement appended as Schedule 30-1;

5. thence northeasterly, coincident with the NSA, to a point at the intersection of 55°15' N latitude and 79°00' W longitude, northeast of Long Island and southwest of Kuujjuaraapik and Whapmagoostui, Québec, being also point 7 of Schedule 1 of the Cree/Inuit Offshore Overlap Agreement appended as Schedule 30-1;

6. thence northeasterly, coincident with the NSA, to a point at the intersection of 55°45' N latitude and 78°00' W longitude, northwest of Kuujjuaraapik and Whapmagoostui, Québec, being also point 8 of Schedule 1 of the Cree/Inuit Offshore Overlap Agreement appended as Schedule 30-1;

7. thence northeasterly, coincident with the NSA, to a point at the intersection of 56°00' N latitude and 77°30' W longitude, east of the Innetalling Island and northwest of Duck Island, being also point 9 of

Schedule 1 of the Cree/Inuit Offshore Overlap Agreement appended as Schedule 30-1;

8. thence northeasterly, coincident with the NSA, to a point at the intersection of 56°22' N latitude and 77°25' W longitude, east of the Salliquit Islands and west of the Nastapoka Islands, being also point 10 of Schedule 1 of the Cree/Inuit Offshore Overlap Agreement appended as Schedule 30-1;

9. thence, coincident with the NSA, due north following 77°25' W longitude to a point at the intersection of 56°43'12" N latitude, west of the Nastapoka Islands, being point 4 of Schedule 4 of the Cree/Inuit Offshore Overlap Agreement appended as Schedule 30-1;

10. thence east, as illustrated in Schedule 2c of the Cree/Inuit Offshore Overlap Agreement contained in Schedule 30-1, following 56°43'12" N latitude to a point at the intersection of 76°38'28" W longitude, south of Taylor Island and north of Gillies Island, being point 3 of Schedule 4 of the Cree/Inuit Offshore Overlap Agreement appended as Schedule 30-1;

11. thence southeasterly following a geodesic line between Taylor and Gillies Islands to a point at the intersection of 56°42'51" N latitude and 76°37'21" W longitude, south of Taylor Island and north of Gillies Island, being point 2 of Schedule 4 of the Cree/Inuit Offshore Overlap Agreement appended as Schedule 30-1;

12. thence east following 56°42'51" N latitude to a point at the intersection with the boundary of Québec south of Riviere Devaux, at approximate 76°32'10" W longitude, being point 1 of Schedule 4 of the Cree/Inuit Offshore Overlap Agreement appended as Schedule 30-1;

thence in a general southerly direction following the boundary of Québec to the point of commencement.

Subject to Chapter 5 and in accordance with Chapter 30 and Schedule 30-1, all EMR Joint Zone Lands, are jointly owned by the MDO and GDO, less the following:

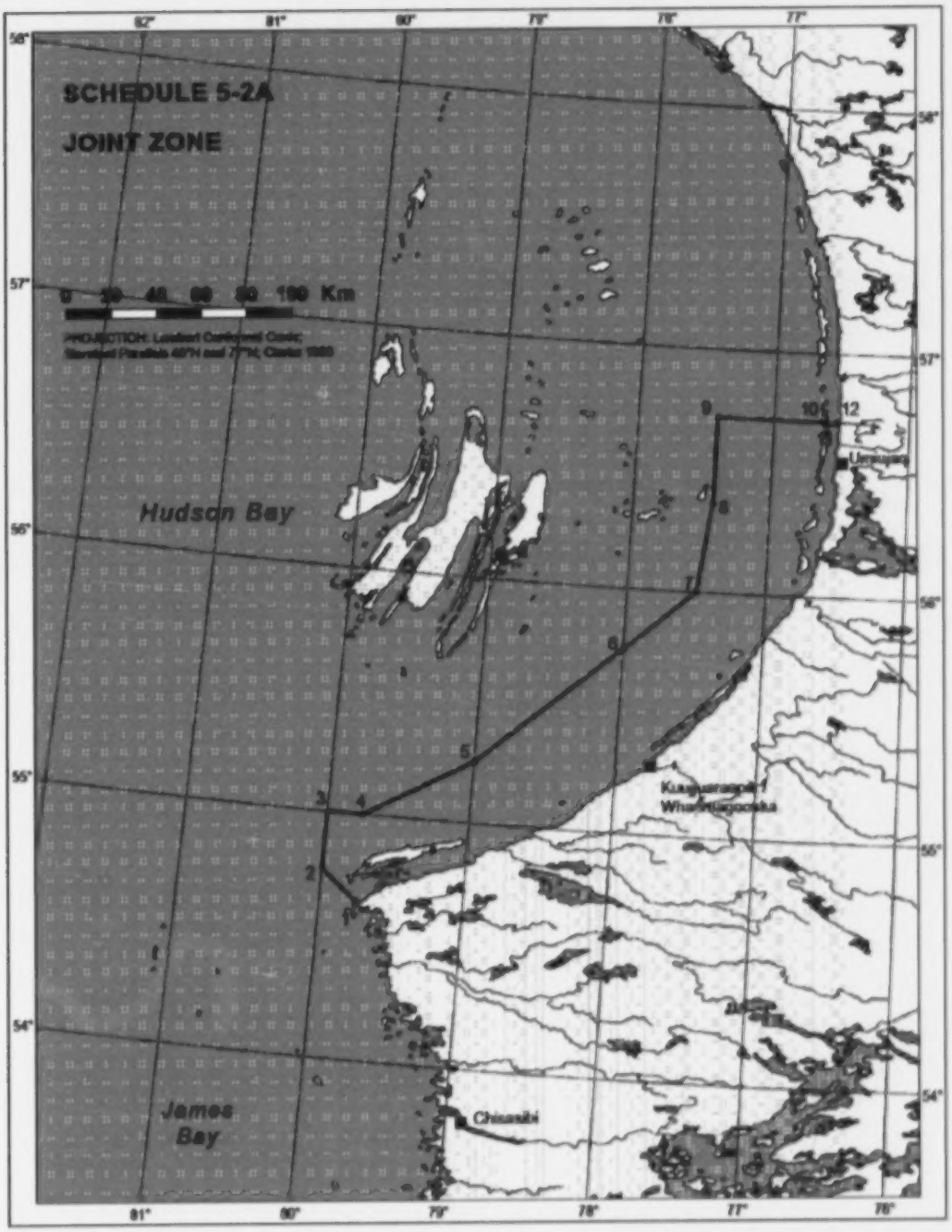
A. Gillies Island, per Certificate of Title 164, Nunavut Land Titles Office;

NOTE:

Where topographic descriptions conflict with geographic coordinates, the topographic descriptions reflect the intention of the Parties, and shall prevail. When the maps attached conflict with the geographic coordinates or topographic descriptions, the geographic coordinates or topographic descriptions reflect the intent of the Parties and shall prevail. All coordinates are in reference to North American Datum 1927 (NAD 27).

SCHEDULE 5-2A

JOINT ZONE



SCHEDULE 5-3

FORM OF CERTIFICATE OF TITLE

NUNAVUT REGISTRATION DISTRICT

CREE LANDS

Certificate of Title

Nunavut

CREE LANDS

(Land description)

INCLUDING MINES AND MINERALS

As provided in the *Eeyou Marine Region Land Claims Agreement Act (Canada)*.

YYYY-MM-DD

SCHEDULE 5-4

EEYOU MARINE REGION (EMR) THIRD PARTY PROPERTY INTERESTS

(SECTION 5.7.1)

Certificate of Titles

1. Taylor Island: per Certificate of Title 164, Nunavut Land Titles Office.
2. Gillies Island: per Certificate of Title 164, Nunavut Land Titles Office.

SCHEDULE 5-5

CONTAMINATED SITES ON CREE LANDS

(SUBSECTIONS 5.8.1, 5.8.2 AND 5.8.3)

Note: No Contaminated Sites identified as of the Effective Date of this Agreement.

CHAPTER 6
PROTECTED AREAS

6.1 General

6.1.1 For greater certainty, no Protected Area or Marine Protected Area may include Cree Lands without the consent of the GDO.

6.1.2 Notwithstanding subsection 6.1.1, Cree Lands located in the Twin Islands Wildlife Sanctuary may be included within a Protected Area. Upon the inclusion of such Cree Lands in a Protected Area, a joint Cree/Government management advisory committee for the Twins Islands Wildlife Sanctuary shall be established regardless of the conclusion of any Protected Area Impact Benefits Agreement, and subsections 6.3.1 to 6.3.6 shall apply *mutatis mutandis*. At any time pursuant to a thirty (30) day notice, the GDO may request that Government negotiate, for the purpose of concluding PAIBA pursuant to section 6.4 and the provisions of that section shall apply *mutatis mutandis*.

6.1.3 The remuneration and expenses incurred by a conciliator appointed under this chapter shall be assumed by Canada.

6.2 Establishment of Protected Areas

6.2.1 The establishment of Protected Areas and the amendment of boundaries of Protected Areas shall be in conformity with an applicable land use plan, if any.

6.2.2 No land use plan shall apply within or amend the boundaries of Protected Areas once established.

6.2.3 Development impact assessment shall apply to Project Proposals in Protected Areas.

6.2.4 Except for National Parks, National Park Reserves, National Marine Conservation Areas, National Marine Conservation Area Reserves and Territorial Parks, the establishment, disestablishment or changing of the boundaries of Protected

Areas is subject to the approval of the EMRWB pursuant to paragraph 13.2.2 a).

6.2.5 The establishment, disestablishment or changing of the boundaries of Protected Areas on Cree Lands is subject to the approval of a GDO.

6.2.6 The establishment, disestablishment or changing of the boundaries of National Parks, National Park Reserves, National Marine Conservation Areas, National Marine Conservation Area Reserves and Territorial Parks outside of Cree Lands shall be done in Consultation with a GDO.

6.2.7 Notwithstanding subsection 6.2.6, in the case of emergency, Government may establish, disestablish or change the boundaries of a Protected Area without Consulting a GDO. Government shall advise the GDO as soon as possible after the establishment, disestablishment or changing of the boundaries of the Protected Area on the necessity of the action and the terms and conditions attached thereto.

6.3 Planning and Management of Protected Areas

6.3.1 The Parties agree to the general desirability of involving Crees in the planning and management of Protected Areas. Accordingly, in addition to all other rights and benefits in this chapter, a GDO shall be Consulted in the planning and management of Protected Areas.

6.3.2 A joint Cree/Government management advisory committee ("Committee") shall be established through a PAIBA when requested either by Government or a GDO.

6.3.3 If established, the Committee shall consist of an equal number of members appointed by the appropriate GDO and the appropriate Minister.

6.3.4 The Committee may advise the Minister or the Minister's designate, the EMRWB, or other agencies, as it deems appropriate, on all matters related to Protected Areas management.

6.3.5 Management plans for a Protected Area shall be developed by Government within five (5) years of the establishment of the Protected Area. Such plans shall be based on the recommendations of the Committee, where such a Committee is established, taking into account the recommendations of other interested Persons. Upon review by the Committee, such plans shall be forwarded to the Minister for consideration and approval. Such plans shall be reviewed and may be revised as provided in the plan.

6.3.6 Each Committee shall prepare an annual operating budget to be forwarded to Government for consideration and approval. Government shall pay the approved annual operating expenses of the Committee.

6.4 Protected Area Impact and Benefit Agreements (PAIBAs)

6.4.1 No Protected Area shall be established until the obligations set out in subsection 6.4.2 and subsection 6.4.3 have been complied with.

6.4.2 Prior to the establishment of a Protected Area, Government and a GDO shall negotiate for the purpose of concluding a PAIBA. A PAIBA negotiated under this chapter shall include any matter connected with the proposed Protected Area where that matter would have a detrimental impact on Crees, or could reasonably confer a benefit on Crees. In particular, but without limiting the generality of the foregoing, the matters identified in Schedule 6-1, as they may be applicable taking into account the nature and character of the proposed Protected Area, shall be considered appropriate for negotiation and inclusion within a PAIBA in relation to a Protected Area.

6.4.3 If the Government responsible for the establishment of the Protected Area and the GDO cannot agree on the terms of a PAIBA within one hundred eighty (180) days or such further period of time as Government and the GDO may agree, they shall select a conciliator who shall submit a report to the Government and the GDO for consideration. If the Government and the GDO cannot agree following conciliation, the conciliator, the Government and the GDO shall each submit a separate report to the Minister for his consideration and decision on the contents of the PAIBA.

6.4.4 Notwithstanding subsection 6.4.1 and subsection 6.4.2, the obligation to conclude a PAIBA with respect to Protected Areas shall:

a) not apply to a Protected Area so long as the Protected Area does not raise any matter that would have a detrimental impact on Cree or that could reasonably confer a benefit on Cree; and

b) apply in any situation where it is intended that a Protected Area established for one purpose be re-established for a different purpose where such re-establishment would have a detrimental impact on Cree or could reasonably confer a benefit on Cree.

6.4.5 Notwithstanding subsection 6.4.1 and subsection 6.4.2, in cases of emergency, such as the establishment of a critical wildlife area, the PAIBA may be concluded immediately following, rather than prior to, the establishment of the Protected Area.

6.4.6 Except where a PAIBA in good standing indicates otherwise, every PAIBA shall be re-negotiated at least every seven (7) years.

6.5 Marine Protected Areas

6.5.1 The Parties agree to the general desirability of involving Crees in the planning and management of Marine Protected Areas.

6.5.2 The establishment of Marine Protected Areas and the amendment of boundaries of Marine Protected Areas shall be in conformity with an applicable land use plan, if any.

6.5.3 No land use plan shall apply to or within the boundaries of Marine Protected Areas once established.

6.5.4 Development impact assessment shall apply to Project Proposals in Marine Protected Areas.

6.5.5 The establishment, disestablishment or changing of the boundary of a Marine Protected Area is subject to the approval of the EMRWB pursuant to paragraph 13.2.2 a).

6.5.6 Where the government of Canada and the EMRWB agree to establish a Marine Protected Area, the establishment of the Marine Protected Area shall, except as otherwise provided in section 6.5, first require the development of:

a) a management plan for the Marine Protected Area; and

b) a Marine Protected Area agreement.

6.5.7 For greater certainty, and except as provided for in subsection 6.5.11, a Marine Protected Area cannot be established without the agreement of the government of Canada and of the EMRWB.

6.5.8 Where the government of Canada and the EMRWB are unable to agree on the contents of the management plan, they shall enter into conciliation. In the event that the government of Canada and the EMRWB cannot agree on the selection of a conciliator, the Federal Court of Canada may appoint a conciliator. If the government of Canada and the EMRWB cannot agree on the content of the management plan following the conciliation, the conciliator, the government of Canada, the GDO and the EMRWB shall each submit a separate report to the Minister for his consideration and decision on the contents of the management plan.

6.5.9 Prior to the establishment of a Marine Protected Area, the government of Canada and the GDO, unless they otherwise agree, shall attempt to negotiate a Marine Protected Area agreement with respect to those matters set forth in Schedule 6-2. Where the government of Canada and the GDO are unable to achieve an agreement through negotiation, they shall enter into conciliation. In the event that the government of Canada and the GDO cannot agree on the selection of a conciliator, the Federal Court of Canada may appoint a conciliator. If the government of Canada and the GDO cannot agree to a Marine Protected Area agreement following conciliation, the conciliator, the government of Canada and the GDO shall each submit a separate report to the Minister for his consideration and decision on the matters set forth in Schedule 6-2.

6.5.10 A failure to achieve a Marine Protected Area agreement following completion of the process set out in subsection 6.5.9 shall not preclude establishment of a Marine Protected Area.

6.5.11 Notwithstanding anything else in section 6.5, in cases of emergency, the government of Canada may create a Marine Protected Area without following the process otherwise set out in section 6.5 in which event the government of Canada shall advise the EMRWB as soon as possible after creating the Marine Protected Area on the necessity of the action and the terms and conditions attached to the Marine Protected Area.

6.6 Cree Access

6.6.1 In addition to any other rights of access and use enjoyed by or flowing to Crees, all Crees have entry to Protected Areas and Marine Protected Areas at no cost.

6.7 Information

6.7.1 Government shall make available Cree translations of its publications that are aimed at informing the Canadian public about Protected Areas and Marine Protected Areas. Any information disseminated or communicated to the public within any Protected Area and any Marine Protected Area shall be equally prominent in Cree and in one (1) or more of Canada's official languages.

6.8 Dedication

6.8.1 Appropriate recognition shall be made of Cree history and presence as part of the process of the establishment and operation of a Protected Area or Marine Protected Area.

6.9 Interpretation

6.9.1 In the event of any conflict between this chapter and Part III, Part III shall prevail.

SCHEDULE 6-1

MATTERS FOR POSSIBLE INCLUSION

IN PROTECTED AREA IMPACT AND BENEFIT AGREEMENTS

1. Management advisory committee.

2. Employment rotation reflecting Cree needs and preferences.

3. Business opportunities for Cree Enterprises in relation to all Protected Areas services and facilities including:

   (a) provision of expert advice; and

   (b) tourist packages and promotion.

4. Language of work in Protected Areas services and facilities.

5. Access of Crees to Protected Areas services and facilities.

6. Important environmental concerns, particularly disruption of Wildlife, including measures for protection and conservation.

7. Traditional Camps.

8. Insofar as use of the Protected Area affects Crees, such matters as:

   (a) land use activities permitted in the Protected Area;

   (b) zones and other matters requiring special protection, limitations or restrictions on use;

   (c) types, forms and modes of technology and transportation permitted; and

   (d) protection and management of Archaeological Sites and sites of spiritual or cultural significance.

9. The information flow and interpretation including liaison between the Cree and the appropriate Protected Area agency regarding Protected Areas cooperative management and the Crees participation and concerns.

10. Relationship to prior and subsequent PAIBAs.

11. Arbitration and amendment provisions.

12. Implementation and enforceability.

13. Any other matters considered to be relevant to the needs of the Protected Area and of Crees.

SCHEDULE 6-2

MATTERS FOR POSSIBLE INCLUSION IN THE MARINE PROTECTED AREA AGREEMENT IN RELATION TO MARINE PROTECTED AREAS

1. Contracting opportunities with Government for Crees in relation to Marine Protected Area activities and services, particularly enforcement, research and monitoring.

2. Employment opportunities with Government for Crees arising from the Marine Protected Area, particularly enforcement, research and monitoring.

3. Any effects of the Marine Protected Area on Cree uses of that area.

4. Communication strategy.

5. Dispute resolution procedure and amendment provisions.

6. Implementation of the Marine Protected Area agreement.

7. Any other matters considered to be relevant.

CHAPTER 7

ENTRY AND ACCESS

7.1 General

7.1.1 Except as otherwise provided for in this Agreement, anyone other than a Cree may not enter, cross or remain on Cree Lands without the consent of the GDO.

7.1.2 For greater certainty:

a) Crees may enter, cross or remain on Cree Lands at any time except where a grant pursuant to subsection 5.4.2 provides otherwise; and

b) unless otherwise provided in this Agreement, Crees have a right of free and unrestricted access to James Bay and Hudson Bay within the EMR and to all water courses, lakes and ponds overlying Crown Lands in the EMR as well as to all Tidelands in the EMR, for all purposes associated with the use and enjoyment of Cree Lands and of other rights under this Agreement, including Harvesting. Subject to Laws of General Application, this right of access to the Tidelands includes the right to install and maintain boat launching facilities such as piers, wharves, docks, ramps, jetties, and anchored-buoys.

7.2 Public Access

7.2.1 In light of the particular nature of the geography of the EMR, the public has a right of access to Cree Lands in the case of an emergency and for the purpose of personal or casual travel unrelated to any commercial operation.

7.2.2 No one exercising the right of access referred to in subsection 7.2.1 shall interfere with Cree Harvesting activities (save in case of an emergency), establish camps or structures other than for merely casual or temporary purposes or engage in

any development, pre-development or commercial activity or Harvest on Cree Lands.

7.2.3 Where the GDO requires exclusive possession, the right of access referred to in subsection 7.2.1 and the right to cross Cree Lands referred to in subsection 7.2.5 may be removed with the agreement of the GDO and Government.

7.2.4 With the consent of the GDO, Persons conducting research for any purposes other than those referred to in subsection 7.3.6 shall have a right of access to Cree Lands in accordance with terms and conditions imposed by the GDO, other than the payment of fees.

7.2.5 The right of access to Cree Lands set out in section 7.2 is subject to the conditions that there be:

a) no significant damage caused whether by way of physical alteration to the Land or otherwise;

b) no mischief committed;

c) no interference with Cree Harvesting activities save in the circumstances of an emergency; and

d) no significant interference with other Cree uses and quiet enjoyment of such Lands.

7.2.6 Persons exercising a right of access under section 7.2 shall be:

a) liable for damages caused to the Lands or otherwise; and

b) deemed to be trespassers and may be removed from the Lands, if they fail to comply with the conditions of these provisions.

7.2.7 A member of Parliament, the Legislative Assembly, or any municipal council or regional government, or a candidate for election of any of such bodies, or anyone accompanying and assisting any such member or candidate, may enter on Cree Lands for the purpose of campaigning for an official election.

7.2.8 The rights of access to Cree Lands under section 7.2 are not subject to the payment of any fee, or any term or condition, except as provided in section 7.2.

7.3 Government Access

7.3.1 Agents, employees and contractors of Government and members of the Canadian Forces and peace officers shall have the right, in accordance with these provisions, to enter, to cross and to remain on Cree Lands to carry out legitimate Government purposes relating to the lawful delivery and management of programs and to carry out duties in accordance with the law of Canada.

7.3.2 Except where agents, employees and contractors of Government need access to Cree Lands for the purpose of Wildlife management and research, or for the establishment of navigational aids pursuant to subsection 7.3.11, should Government, the Canadian Forces or peace officers require use or occupancy of Cree Lands for more than eighteen (18) months, including use of unmanned facilities, the GDO may require Government to obtain an interest in the Land.

7.3.3 The right in subsection 7.3.1 shall be subject to subsection 7.2.5. Government shall be liable for damages caused to the Lands by anyone exercising rights pursuant to subsections 7.3.1 and 7.3.11.

7.3.4 In a case where more than insignificant damage may be caused to the Land or otherwise, or where there may be more than insignificant interference with the use and quiet enjoyment of the Land by Crees, Government shall Consult the GDO and seek its agreement regarding the terms and conditions for exercising Government access under subsection 7.3.1 or where agreement cannot be achieved, the matter shall be referred to Arbitration. The activities of peace officers, federal investigators and law enforcement officers carrying out duties under the law of Canada shall not be subject to this section.

7.3.5 Without limiting the generality of section 7.3, terms and conditions required under subsection 7.3.4 for exercising Government access shall ensure that:

a) environmental protection measures are consistent with the provisions of this Agreement;

b) information is provided; and

c) location, time and duration of access is addressed.

7.3.6 Government agents, employees and contractors need access to Cree Lands for the purpose of Wildlife management and research. Notwithstanding subsection 7.3.1, access to Cree Lands by Government agents, employees and contractors for the purposes of Wildlife management and Wildlife research shall be subject to the approval of the EMRWB subsequent to Consultation with the CTA and the GDO.

7.3.7 In the event that anyone exercising access under subsections 7.3.1 or 7.3.11 causes damage to Cree Lands or otherwise, and Government and the GDO are unable to agree on compensation for damages, the matter shall be referred to Arbitration for the determination of liability and fixing of appropriate compensation.

7.3.8 The Department of National Defence shall have no greater rights to conduct military manoeuvres, including exercises and movements, on Cree Lands than it has under generally applicable Legislation with respect to other lands held in fee simple. For greater certainty, this subsection shall prevail over subsections 7.3.9 and 7.3.10.

7.3.9 The Minister of National Defence may authorize access to Cree Lands for the execution of manoeuvres by the Canadian Forces pursuant to section 257 of the *National Defence Act*, R.S.C. 1985, c. N-5 and with the exception of subsection 7.3.8 nothing in these provisions applies to or affects such access authorized by the Minister of National Defence.

7.3.10 For those manoeuvres referred to in subsection 7.3.9, access onto and across Cree Lands for each manoeuvre shall only occur after the negotiation and conclusion of an agreement with the GDO dealing with contact persons, consultation mechanisms and timing thereof and compensation for damages, which agreement may be amended from time to time.

7.3.11 Subject to subsections 7.3.3, 7.3.4, 7.3.5 and 7.3.7, Government may maintain and establish navigational aids on Cree Lands. Navigational aids shall be the property of Government and may not be interfered with by any Person while such aids are on Cree Lands or in Water on Cree Lands.

7.3.12 The rights of access to Cree Lands under section 7.3, except under subsection 7.3.2 are not subject to the payment of any fee, or any term or condition except as provided in section 7.3.

7.4 Expropriation

7.4.1 Any Person or authorized representative of any Person, who has power of expropriation under federal or territorial Legislation ("expropriating authority"), may exercise that power of expropriation in accordance with Laws of General Application as qualified by this Agreement. However, Cree Lands may only be expropriated for a public work or for a public purpose.

7.4.2 Nothing in this section shall be construed to give the government of Nunavut more extensive powers of expropriation than are given to the legislatures of the provinces.

7.4.3 Any and all expropriation shall be approved by a specific order of the Governor in Council.

7.4.4 Any expropriation Legislation coming into force after the Effective Date of this Agreement shall, insofar as it applies to Cree Lands, provide for the following minimum procedures:

a) notice of intention to expropriate served on the GDO;

b) an opportunity for the GDO to object to the expropriation on the basis that the expropriating authority has not complied with the expropriation Legislation or is otherwise unlawful, and an opportunity to be heard on that objection in a competent court; and

c) the determination of compensation by negotiation and mediation and, failing that, by reference to Arbitration or to the committee referred to in subsection 7.4.8.

7.4.5 Where an interest in Cree Lands is expropriated, the expropriating authority shall, if reasonably possible, offer compensation in the form of replacement Lands of equivalent utility and value in the EMR, or a combination of Lands and money.

7.4.6 Where the expropriating authority acquires an estate in fee simple, those Lands shall no longer be Cree Lands. Replacement Lands acquired as compensation for expropriation shall become Cree Lands. Where Lands which have been expropriated are no longer required for the purposes for which they were expropriated, the GDO shall have an option for six (6) months following such a determination to re-acquire those Lands as Cree Lands for the same consideration as was provided to it by the expropriation authority. In the event significant improvements were made to the Lands by Government, the parties will negotiate either an acceptable price for the improvement or the terms and conditions for the removal of such improvements. If the parties are unable to agree on a price, the matter shall be referred to Arbitration or to the committee referred to in subsection 7.4.8 b).

7.4.7 The GDO shall not be required to take compensation in the form of replacement Lands.

7.4.8 Where the GDO and the expropriating authority continue to disagree on compensation, and mediation, if provided for, fails, the determination of any compensation payable shall be determined:

a) by Arbitration, other than for expropriation under the *National Energy Board Act*, R.S.C. 1985, c. N-7; or

b) for expropriation under the *National Energy Board Act*, by an arbitration committee appointed under the Act that shall include at least one (1) nominee of the GDO. The Minister in establishing the arbitration committee shall choose members who have special knowledge of, and experience related to, the criteria set out in subsection 7.4.9.

7.4.9 In determining the amount of compensation payable to the GDO the Arbitrators or committee shall be guided by:

a) the value of the Land taking into account all just and appropriate factors that can be substantiated in the circumstances;

b) loss of use to the GDO and to the Crees;

c) the effect on Harvesting by Crees;

d) the adverse effect of the taking, upon Lands retained by the GDO;

e) damage which may be caused to the Land taken or otherwise;

f) nuisance, inconvenience and noise to the GDO and to the Crees;

g) the cultural attachment of Crees to the Land;

h) the peculiar and special value of the Land to Crees;

i) the effect on rights and benefits otherwise provided to Crees by this Agreement;

j) an amount to cover reasonable costs associated with the GDO inspections as deemed appropriate by the Arbitrators or the committee;

k) an amount to cover reasonable costs to the GDO associated with the Arbitration or the committee process; and

l) any other factors as may be provided for in Legislation.

7.4.10 Where an expropriating authority would have a power of expropriation of Cree Lands, or an interest therein under subsection 7.4.1, that power may not be executed if twelve percent (12%) of all Cree Lands vesting on the Effective Date of this Agreement or an interest therein has already been and remains expropriated.

7.4.11 In calculating the areas expropriated in subsection 7.4.10, no account shall be taken of those situations in which the GDO accepted replacement Lands pursuant to subsection 7.4.5.

7.5 Sand and Gravel

7.5.1 Notwithstanding anything in this Agreement, if Government requires sand and gravel and other like construction materials from Cree Lands for public purposes but the GDO refuses to permit Government to take the said materials, Government may refer the matter to Arbitration for the purposes of obtaining an entry order enabling the removal of such material.

7.5.2 The Arbitrators shall grant an entry order only if they determine that:

a) the materials are required for public purposes and no alternative supply is reasonably available; and

b) no competing Cree need for those materials in that location then exists and no alternative supply for that need is reasonably available.

7.5.3 If an entry order is granted, Government shall pay the GDO for the materials removed, the greater of:

a) $1.00 (1993$) per cubic meter, valued at the Effective Date of this Agreement and indexed thereafter by the Final Domestic Demand Implicit Price Index; or

b) the royalty rate imposed by the Crown, as amended from time to time, on the extraction of such materials from Crown Lands.

7.5.4 The Arbitrators shall determine the terms and conditions for access and compensation for access, and such compensation shall be determined in accordance with subsection 7.4.9. The calculation of compensation shall not take into account any amount mentioned in subsection 7.5.3, or the payment of any entry fee required by Legislation.

7.5.5 An entry order shall include terms and conditions to minimize the damage and interference with Cree use, and shall also provide that Government rehabilitate the site.

7.6 Application and Savings

7.6.1 For greater certainty, any Person exercising access rights referred to under this chapter, except rights referred to under section 7.2 and subsections 7.3.8 to 7.3.10, shall acquire appropriate authorizations where required, including under Chapter 18 prior to the exercise of those rights.

7.6.2 Persons exercising rights under this chapter have no right of action against the GDO for any loss or damage arising from the exercise of those rights.

PART II LAND USE PLANNING AND CONSULTATIONS

CHAPTER 8
LAND USE PLANNING

8.1 Application

8.1.1 In this chapter:

"Terre" "***Land***" includes Resources and Seawater.

8.1.2 The appropriate Government departments and agencies shall be responsible for the implementation of land use plans approved in accordance with subsection 8.5.11.

8.1.3 This chapter applies to both Marine Areas and Land within the EMR.

8.2 Planning Principles, Policies, Priorities and Objectives

8.2.1 The following principles shall guide the development of planning policies, priorities and objectives:

a) people are a functional part of a dynamic biophysical environment, and land use cannot be planned and managed without reference to the human community; accordingly, social, cultural and economic endeavours of the human community must be central to land use planning and implementation;

b) the primary purpose of land use planning in the EMR shall be to protect and promote the existing and future well-being of those individuals and communities resident in or using the EMR taking into account the

interests of all Canadians; special attention shall be devoted to protecting and promoting the existing and future well-being of the Crees and Cree Lands;

c) the planning process shall ensure land use plans reflect the priorities and values of the residents and users of the planning regions;

d) the public planning process shall provide an opportunity for the active and informed participation and support of the Crees and other residents or users affected by the land use plans; such participation shall be promoted through various means, including ready access to all relevant materials, appropriate and realistic schedules, recruitment and training of local Crees and other residents and users to participate in comprehensive land use planning;

e) plans shall provide for the conservation, development and utilization of Land;

f) the planning process shall be systematic and integrated with all other planning processes and operations, including the impact review process contained in this Agreement; and

g) an effective land use planning process requires the active participation of both Government and the Crees.

8.2.2 The objective of the planning process shall be:

a) to develop planning policies, priorities and objectives regarding the conservation, development, management and use of Land in the EMR;

b) consistent with paragraph a), to prepare land use plans which guide and direct Resource use and development in the EMR; and

c) the implementation of land use plans.

8.2.3 In developing planning policies, priorities and objectives, factors such as the following shall be taken into account:

a) economic opportunities and needs;

b) community infrastructural requirements, including housing, health, education and other social services, and transportation and communication services and corridors;

c) cultural factors and priorities;

d) environmental protection and management needs, including Wildlife conservation, protection and management; and

e) energy requirements, sources and availability.

8.3 Land Use Plans

8.3.1 A land use plan shall be a document containing text, schedules, figures and maps for the establishment of objectives and guidelines for short-term and long-term development, taking into account factors such as the following:

a) demographic considerations;

b) the Resource base and existing patterns of natural resource use;

c) economic opportunities and needs;

d) transportation and communication services and corridors;

e) energy requirements, sources and availability;

f) community infrastructural requirements, including health, housing, education and other social services;

g) environmental considerations, including Protected Areas , Marine Protected Areas and Wildlife habitat;

h) cultural factors and priorities, including the protection and preservation of Archaeological Sites; and

i) special local and regional considerations.

8.3.2 The purpose of a land use plan shall be to protect and promote the existing and future well-being of residents of the EMR and of the coastal Cree communities of Eeyou Istchee taking into

account the interests of all Canadians, and to protect, and where necessary, to restore the environmental integrity of the EMR.

8.3.3 A land use plan shall contain an implementation strategy.

8.4 Eeyou Marine Region Planning Commission (EMRPC)

Establishment

8.4.1 The Eeyou Marine Region Planning Commission (EMRPC) is hereby established as an institution of public government with the major responsibilities to:

a) establish broad planning policies, objectives and goals for the EMR in conjunction with Government;

b) develop, consistent with other provisions of this chapter, land use plans that guide and direct Resource use and development in the EMR; and

c) generally, fulfill the objectives of this Agreement in the manner described, and in accordance with the general principles mentioned in subsection 8.2.1, as well as such additional functions as may be agreed upon from time to time by Government and the GDO.

8.4.2 The head office of the EMRPC shall be in Eeyou Istchee.

8.4.3 The costs of the EMRPC shall be the responsibility of Government. The EMRPC shall prepare an annual budget, subject to review and approval by Government.

Role and Responsibility

8.4.4 Consistent with this Agreement, the EMRPC shall:

a) identify planning regions;

b) identify specific planning objectives, goals and variables that apply to planning regions and are consistent with the broader objectives and goals;

c) contribute to the development and review of Arctic and sub Arctic policies;

d) disseminate information and data;

e) solicit opinions from Cree Bands, Cree community residents and others about planning objectives, goals and options of the region;

f) prepare and circulate draft land use plans;

g) promote public awareness and discussion and conduct public hearings and debate throughout the planning process;

h) recommend plans to the Minister;

i) consider modifications requested by the Minister in the event that a draft plan is rejected;

j) consider amendments to a land use plan in accordance with this chapter;

k) determine whether a Project Proposal is in conformity with a land use plan;

l) monitor projects to ensure that they are in conformity with land use plans; and

m) report annually to the Minister and the GDO on the implementation of land use plans.

Composition and Appointment

8.4.5 The size and makeup of the membership of the EMRPC may vary, but the governments of Canada and Nunavut shall each recommend at least one (1) member and the GDO shall nominate a number of members equal to the total number recommended by Government. The EMRPC members shall be appointed by the Minister of Indian Affairs and Northern Development from the above-noted recommendations and nominations.

8.4.6 Federal and territorial public servants shall not be appointed to the EMRPC.

8.4.7 The GDO shall have the right to substitute from time to time alternates for its nominated members in order to ensure appropriate representation for the region for which planning is being conducted at any one time. Such alternates shall be appointed in a manner consistent with subsection 8.4.5.

8.4.8 Subject to subsection 8.4.10, members shall be appointed for a term of three (3) years. In the initial appointment of the EMRPC members, two (2) members under paragraph 8.4.5, shall be appointed for three (3) years, and the other two (2) members shall be appointed for four (4) years. Thereafter, all appointments shall be for a term of three (3) years, except that any member appointed to replace any member whose term has not expired shall be appointed for the balance of the term of his or her predecessor.

8.4.9 From nominations provided by the members recommended and nominated pursuant to subsection 8.4.5, the Minister of Indian Affairs and Northern Development, in consultation with the Minister responsible for Renewable Resources of the government of Nunavut and the GDO shall appoint a further member to act as a chairperson. A member of the EMRPC may be nominated as chairperson and another member may be appointed as a replacement pursuant to subsection 8.4.11.

8.4.10 The chairperson or other member of the EMRPC may be removed for cause by the Minister.

8.4.11 Where a vacancy occurs, a replacement member may be nominated or recommended for the remainder of the term of the vacant member by the body nominating or recommending the member under subsections 8.4.5 or 8.4.9. Upon receiving the recommendation or nomination the Minister shall appoint the replacement member.

8.4.12 A member may be reappointed.

Matters Binding on the Eeyou Marine Region Planning Commission

8.4.13 The chairperson and other members shall perform their duties in accordance with:

a) an oath following the form set out in Schedule 8-1, taken and subscribed before assuming office before an officer authorized by law to administer oaths;

b) rules relating to conflict of interest set out in applicable federal and territorial Legislation, provided that, where a matter before the EMRPC affects the Crees in a general way, a member shall not be considered to have a conflict solely on the basis that the member is Cree; and

c) the terms of the Agreement.

8.4.14 The EMRPC shall conduct its business in Canada's official languages as required by Legislation or policy and, upon request of any member, also in the Cree language.

By-laws and Rules

8.4.15 In establishing by-laws, rules and procedures the EMRPC shall, to the extent possible consider and take into account the by-laws and rules of the Nunavut Planning Commission and of the Nunavik Marine Region Planning Commission.

8.4.16 Subject to subsection 8.4.15 the EMRPC may make by-laws and rules respecting:

a) the calling of meetings and sittings of the EMRPC;

b) the conduct of business at meetings of the EMRPC and the establishment of technical panels of the EMRPC;

c) the procedures for making submissions, representations and complaints to the EMRPC;

d) the procedures for collecting information and opinions, including the procedures for conducting formal and informal public hearings;

e) generally the manner of conducting the business of or before the EMRPC; and

f) the admissibility of evidence.

8.4.17 In conducting its hearings, the EMRPC shall:

a) at all times, give weighty consideration to the tradition of Cree oral communication and decision making; and

b) allow standing at all hearings to a GDO.

8.4.18 The EMRPC may, within its approved budget, engage and fix the remuneration of experts or anyone having technical or special knowledge to assist the EMRPC.

Co-ordination with adjacent institutions

8.4.19 The EMRPC shall make best efforts to coordinate the discharge of its powers, functions or duties with adjacent institutions.

8.5 Development and Review of Land Use Plan

8.5.1 An EMR land use plan shall be formulated by the EMRPC to guide and direct short term and long term development in the EMR. Regional or sub-regional components of the land use plan shall be implemented where approved pursuant to subsection 8.5.11.

8.5.2 The first stage of the formulation of a land use plan, after such consultation as the EMRPC finds appropriate, shall be the preparation of a draft land use plan by the EMRPC.

8.5.3 The EMRPC shall prepare a draft land use plan and, upon completion, shall make the draft land use plan public and solicit written or oral comments from all appropriate Government agencies, GDOs, communities and the general public.

8.5.4 The EMRPC shall:

a) conduct public hearings on the draft plan;

b) evaluate the draft plan in light of representations made at the public hearings; and

c) as appropriate, revise the draft plan.

8.5.5 Where a draft plan applies to Cree Lands, prior to submitting the revised draft plan to the Minister of Indian Affairs and Northern Development and the Minister responsible for Renewable Resources of the government of Nunavut, as required by subsection 8.5.7, the EMRPC shall submit the revised draft plan to the GDO. The EMRPC shall also make the revised draft land use plan public.

8.5.6 Upon receipt of a revised draft land use plan that applies to Cree Lands, the GDO shall, as soon as practicable:

a) accept the plan; or

b) refer it back to the EMRPC for reconsideration accompanied by written reasons; the EMRPC shall reconsider the plan in light of the written reasons of the GDO and may make such reasons public.

8.5.7 Upon completion of the process in subsection 8.5.4 or as the case may be, in subsection 8.5.6, the EMRPC shall submit the proposed plan, along with a written report of the public hearings, to the Minister of Indian Affairs and Northern Development and the Minister responsible for Renewable Resources of the government of Nunavut. The EMRPC shall also make the proposed land use plan public.

8.5.8 Upon receipt of the proposed land use plan, the Ministers jointly shall, as soon as practicable:

a) accept the plan; or

b) refer it back to the EMRPC for reconsideration accompanied by written reasons; the EMRPC may make the reasons of the Ministers public.

8.5.9 The EMRPC shall reconsider the plan in light of written reasons and shall resubmit the plan to the Ministers for final consideration.

8.5.10 Upon accepting a plan, the Minister of Indian Affairs and Northern Development shall seek Governor in Council approval and commitment, and the Minister responsible for Renewable Resources of the government of Nunavut shall seek approval and commitment of the Executive Council.

8.5.11 Upon approval by the Governor in Council and the Executive Council, the plan shall be implemented on the basis of jurisdictional responsibility. All Government departments and agencies shall conduct their activities and operations in accordance with the plan as approved.

8.5.12 The EMRPC shall review all applications for Project Proposals. Upon receipt and review of a Project Proposal, the EMRPC or members thereof or officers reporting to the EMRPC shall:

a) determine whether the Project Proposals are in conformity with plans; and

b) forward the Project Proposals with its determination and any recommendations to the appropriate federal and territorial agencies.

The land use plan may make provision for the EMRPC to approve minor variances.

8.5.13 Where the EMRPC has determined that a Project Proposal is not in conformity with the plan, the proponent may apply to the appropriate Minister for exemption. The Minister may exempt the Project Proposal from conformity with the plan and shall, subject to subsections 18.3.2 and 18.3.3, refer it to the EMRIRB for screening. Nonconforming Project Proposals shall not be sent to the EMRIRB until such exemption is obtained or a variance has been approved.

8.5.14 Where the appropriate Minister exempts a Project Proposal, the Minister shall supply the EMRPC with written reasons and such reasons shall be made public.

8.5.15 Subsections 8.5.12 to 8.5.14 shall apply where a land use plan has been approved pursuant to subsection 8.5.11.

8.6 Amendment of Land Use Plan

8.6.1 Government, a GDO, or any Person affected by the land use plan, may propose amendments to the plan to the EMRPC.

8.6.2 The EMRPC shall consider a proposed amendment and, if it deems a review appropriate, review the proposal publicly.

8.6.3 Upon completion of the process in subsection 8.6.2, the EMRPC shall recommend to the Minister of Indian Affairs and Northern Development and the Minister responsible for Renewable Resources of the government of Nunavut that:

a) the proposed amendment be rejected in whole or in part; or

b) the proposed amendment be accepted, in whole or in part.

8.6.4 If the Ministers reject the recommendations of the EMRPC, subsections 8.5.8 and 8.5.9 shall apply *mutatis mutandis*.

8.6.5 An amendment to the plan shall be effective when approved by the Ministers.

8.7 Municipalities

8.7.1 In the event that any municipalities are created in the EMR, subsections 8.7.2 to 8.7.4 shall guide land use planning for such municipalities and their involvement in land use planning.

8.7.2 The principles of land use planning as set out in this chapter shall be applied in the development of municipal plans. The development of municipal plans shall be the responsibility of the municipalities as provided for in the Legislation of the government of Nunavut.

8.7.3 In the development of a regional land use plan, the EMRPC shall give great weight to the views and wishes of the municipalities in the areas for which planning is being conducted.

8.7.4 The EMRPC and municipal planning authorities shall cooperate to ensure that regional and municipal land use plans are compatible.

8.8 Interpretation

8.8.1 Land use plans shall be developed and implemented in a manner consistent with Part III.

8.8.2 The land use planning process shall apply to Cree Lands. Land use plans shall take into account Cree goals and objectives for Cree Lands.

8.9 Waste Clean-Up

8.9.1 The EMRPC shall identify and prioritize the requirement to clean up waste sites in the EMR, including hazardous waste sites, inactive mining sites and abandoned Mid Canada Lines sites. To the extent possible, this initiative shall be coordinated with the development of land use plans.

SCHEDULE 8-1

OATH OF OFFICE

I, ..., do solemnly affirm (or swear) that I will faithfully, truly, impartially and honestly and, to the best of my judgment, skill and ability, execute and perform the duties required of me as a member of the Eeyou Marine Region Planning Commission .

(So help me God).

_____

Signature

Solemnly affirmed (or sworn) before me at (*place* •), this (*date* •)

_____

Signature
Commissioner of Oaths

CHAPTER 9

CREE CONSULTATION ON CERTAIN ISSUES DIRECTLY AFFECTING THE EMR

9.1 Government shall Consult the GCC(EI) on the following:

a) making a decision to open up any part of the EMR which is not Cree Lands to exploration for Minerals;

b) granting, permitting, approving or authorizing a development of Minerals in any part of the EMR which is not Cree Lands; and

c) granting, permitting, approving or authorizing the construction, operation or abandonment of a pipeline, an Oil or gas rig or other structure for the exploitation of Minerals in any part of the EMR which is not Cree Lands.

9.2 Before finalizing a strategy for the management of Marine Areas, including estuarine or coastal waters, the Minister shall Consult the GCC(EI) with respect to the strategy.

9.3 The Minister shall Consult the GCC(EI) in the development and implementation of plans for the integrated management of activities or measures that directly affect Marine Areas, including estuarine and coastal waters.

9.4 The Consultation referred to in section 9.3 shall include Consultation about:

a) the establishment of, and possible Cree participation in, advisory or management bodies; and

b) the establishment of environmental guidelines, objectives and criteria respecting the quality of Marine Areas, including estuarine and coastal waters.

9.5 Government shall also Consult the GCC(EI) prior to granting, permitting, approving or authorizing tidal energy production or hydroelectric energy production in the EMR.

9.6 Government shall, save in the event of an emergency, Consult the GCC(EI) prior to:

a) the establishment of marine navigation services in Marine Areas; and

b) the issuance of approvals or exemptions, under the *Navigable Waters Protection Act*, R.S.C. 1985, c. N-22, in Marine Areas.

PART III WILDLIFE AND WILDLIFE MANAGEMENT

CHAPTER 10
PRINCIPLES AND OBJECTIVES

10.1 Part III recognizes and reflects the following principles:

a) Crees have traditionally used and occupied the EMR and continue to do so;

b) from the Crees' traditional use and occupancy flow certain legal interests with respect to Wildlife which Cree enjoy throughout the EMR;

c) Crees are traditional and current users of Wildlife and other Resources of the EMR and have developed particular knowledge and understanding of the region and its Resources;

d) the Cree population is steadily increasing;

e) a long-term, healthy, renewable resource economy is both viable and desirable;

f) there is a need for an effective system of Wildlife management that respects the Crees Harvesting rights and priorities;

g) there is a need for a system of Wildlife management that provide optimum protection to the Wildlife resource economy;

h) the Wildlife management system and the exercise of Cree Harvesting rights are governed by and subject to the principles of conservation;

i) Crees have traditionally had and shall have under this Agreement an effective and fundamental role in all aspects of Wildlife management; and

j) Government has ultimate responsibility for Wildlife management and agrees to exercise this responsibility in the EMR in accordance with the provisions of Part III.

10.2 The objective of Part III is to create a Wildlife management system for the EMR that:

a) defines and protects Cree Harvesting rights;

b) is governed by and implements the principles of conservation;

c) reflects levels, patterns and the methods of Cree Harvesting;

d) reflects the primary role of the Crees in the Harvest of Wildlife;

e) reflects the importance of an effective role for Crees in Wildlife management;

f) promotes the long-term economic, social and cultural interests of the Crees;

g) provides for defined Harvesting and access by individuals other than Crees;

h) recognizes the value of Cree approaches to Wildlife management and Cree knowledge of Wildlife and Wildlife habitat and integrates those approaches with knowledge gained through scientific research;

i) integrates the management of all Wildlife species and Wildlife habitat within a comprehensive management system;

j) provides for public participation and promotes public confidence in Wildlife management, particularly amongst Crees;

k) establishes the EMRWB to make decisions pertaining to Wildlife management; and

l) provides for effective coordination with other institutions responsible for the management of Wildlife migrating between the EMR and other areas.

10.3 The principles of conservation will be interpreted and applied giving full regard to the principles and objectives outlined in sections 10.1 and 10.2 and the rights and obligations set out in Part III.

10.4 For the purposes of Part III the principles of conservation are:

a) the maintenance of the natural balance of ecological systems within the EMR;

b) the maintenance of vital, healthy Wildlife populations, including maintaining such populations to sustain the Harvesting needs as defined in Part III;

c) the protection of Wildlife habitat; and

d) the restoration and revitalization of depleted populations of Wildlife and Wildlife habitat.

CHAPTER 11
HARVESTING

11.1 Cree Rights to Harvest

11.1.1 Subject to the terms of Part III, and except for anadromous fish spawning in Québec, where a Total Allowable Take for a species, stock or population of Wildlife has not been established by the EMRWB, a Cree shall have the right to Harvest that species, stock or population in the EMR up to the full level of his or her economic, social and cultural needs.

11.1.2 For the purpose of subsection 11.1.1, full level of economic, social and cultural needs means full level of Harvest.

11.1.3 Where a Total Allowable Take for a species, stock or population of Wildlife has been established by the EMRWB pursuant to section 13.5, a Cree shall have the right to Harvest that species in accordance with the terms of Part III.

11.1.4 Except for anadromous fish spawning in Québec, any restriction or quota on the amount of Wildlife that may be Harvested and that were enforceable in regard to Crees immediately prior to the Effective Date of this Agreement are deemed to have been established by the EMRWB, and shall remain in effect until removed or otherwise modified by the EMRWB in accordance with Part III.

11.1.5 Any restriction or quota on the amount of anadromous fish spawning in Québec that may be Harvested that was in force immediately prior to the Effective Date of this Agreement and that was enforceable in regard to Crees shall remain in effect until removed or otherwise modified by the responsible authority.

11.1.6 Where, under the James Bay and Northern Québec Agreement, Crees have been allocated a quota or amount of anadromous fish spawning in Québec that may be taken by them in Québec, all or part of that quota or amount may be Harvested by Crees in the

EMR. Where under the JBNQA no quota or amount of anadromous fish spawning in Québec has been established, a Cree shall have the right to Harvest that species, stock or population in the EMR up to the full level of his of her economic, social and cultural needs.

11.1.7 The Crees have the right to possess and use all equipment reasonably needed or traditionally used to Harvest.

11.2 James Bay Preserve

11.2.1 The Crees may continue to Harvest Wildlife outside the EMR but within the James Bay Preserve, subject to Laws of General Application.

11.2.2 For the purposes of subsection 11.2.1, the James Bay Preserve is that area, excluding the EMR, comprising all that portion of James Bay, including all islands, lying to the south of a straight line drawn between Cape Henrietta Maria in the Province of Ontario, and Cape Jones in the Province of Quebec.

11.3 Species Reserved for Crees

11.3.1 In the EMR, certain species of Wildlife are reserved for the exclusive use of Crees. Such exclusive right includes the exclusive right to Harvest such species, including the right to Harvest for all commercial purposes except in relation to commercial fisheries. The species contemplated by this subsection are listed in Schedule 11-1. Should commercial fisheries for any of the species of fish listed in Schedule 11-1 be established in the EMR, Crees will have a priority in regard to accessing licences related to such commercial fisheries.

11.3.2 In the EMR, Crees shall have the exclusive right to Harvest for commercial purposes the species of Wildlife listed in Schedule 11-2.

11.3.3 In the EMR, Crees shall have the exclusive right of keeping in captivity and husbandry for the species of Wildlife listed in Schedule 11-3.

11.4 Allocation of Total Allowable Take

11.4.1 Where a Total Allowable Take has been established pursuant to section 13.5, the Total Allowable Take shall be allocated in the following order of priorities:

a) an amount to provide for the Basic Needs Level or the Adjusted Basic Needs Level as the case may be;

b) an amount to provide for personal consumption by residents of the coastal Cree communities of Eeyou Istchee other than Crees;

c) an amount to provide for the establishment of economic ventures sponsored by Cree Enterprises including commercial, recreational or sports Harvesting, domestication and animal husbandry, propagation, and Aquaculture; and

d) an amount to provide for commercial, recreational, or other uses, considering these various demands on the Wildlife and the benefits that may accrue to the local economies of the Crees in Eeyou Istchee.

11.4.2 Any ongoing exploratory, experimental or test fisheries in the EMR, other than Cree fisheries, will cease at the end of the year in which the Effective Date of this Agreement occurs.

11.4.3 Where the Total Allowable Take is equal to or less than the Basic Needs Level or the Adjusted Basic Needs Level as the case may be, Crees shall have the right to Harvest the entire Total Allowable Take.

11.5 Commercial Operations

11.5.1 The Crees have a right of first refusal to establish and operate any new commercial operation in the EMR involving:

a) non-consumptive uses of Wildlife within Eeyou Istchee;

b) recreational fishing and other consumptive uses of Wildlife within Eeyou Istchee; and

c) marketing and processing of all Wildlife, Wildlife parts and Wildlife products within or outside Eeyou Istchee.

11.5.2 All Harvesting activities pursuant to commercial fishing licences or similar authorizations shall be subject to Laws of General Application.

11.6 Licensing

11.6.1 Subject to the terms of Part III, a Cree, may Harvest up to his or her Basic Needs Level or Adjusted Basic Needs Level, as the case may be, without any form of licence, or permit and without imposition of any form of fee. In the event that identification documentation has been determined to be necessary pursuant to subsection 13.4.1, a Cree shall be required to possess such identification while Harvesting.

11.6.2 Nothing in this Agreement affects Canada's ability to require a Cree to obtain licences for the use and possession of firearms under federal Legislation on the same basis as any other aboriginal people of Canada.

11.6.3 Where any commercial operation approved in accordance with this chapter and undertaken by a Cree or a Cree Enterprise in the EMR requires a licence under Laws of General Application, said licence shall be issued forthwith by the appropriate Minister and at a fair fee.

11.7 Disposition of Harvest

11.7.1 Subject to subsections 11.7.4 and 11.7.5, Crees have the right to dispose freely, sell, barter, trade, exchange, buy from, possess or give to Crees, other Canadian Crees and other beneficiaries of the James Bay and Northern Québec Agreement either inside or outside the EMR, for personal consumption or for community consumption in accordance with Cree customs and practices, any Wildlife lawfully Harvested.

11.7.2 Crees have the right to dispose freely, sell, barter, trade, exchange, buy from, possess or give to any Person either inside

or outside the EMR any non-edible product of Wildlife lawfully Harvested pursuant to subsections 11.1.1 and 11.1.3.

11.7.3 Crees have the right to transport within Eeyou Istchee any Wildlife Harvested in the EMR.

11.7.4 Crees may be required by the appropriate Government agency to obtain a permit to transport Wildlife Harvested in the EMR outside of the Eeyou Istchee. If such permit is required, Government shall issue the permit upon request, unless it has good cause for refusing the permit, and the permit may contain terms and conditions as established by Laws of General Application. Any fees for such permit shall be waived.

11.7.5 The right to dispose in subsections 11.7.1 and 11.7.2 is subject to Laws of General Application regarding the sale or offer for sale of any migratory birds, migratory bird eggs, or parts thereof.

11.7.6 Any disposition of Harvest other than a disposition described in subsection 11.7.1 and 11.7.2 is subject to Laws of General Application.

11.8 Assignment

11.8.1 A GDO may assign any part, other than the whole, of the Basic Needs Level or Adjusted Basic Needs Level for the purpose of sport Harvesting to any non-Cree Person qualified to Harvest under Laws of General Application. For greater certainty, a Cree may not assign a right to Harvest.

11.8.2 A GDO may establish terms and conditions for any assignment pursuant to subsection 11.8.1 including, but not limited to, the requirement for an assignee to use Cree guides.

11.8.3 Notwithstanding anything in subsections 11.8.1 and 11.8.2:

a) any future Basic Needs Level or Adjusted Basic Needs Level for migratory birds and their eggs between March 10 and September 1 in any given year; or

b) the Harvest authorized by Article 2, paragraph 4(a) of the *Protocol amending the 1916 Convention for the Protection of Migratory Birds between Canada and United States* contained in the Schedule to the *Migratory Birds Convention Act*, S.C. 1994, c. 22;

shall not be assignable to Persons mentioned in subsection 11.8.1, unless permitted by Laws of General Application.

11.8.4 No assignment pursuant to this section shall be for a term, including any option for renewal, exceeding three (3) years. Any assignment for a term exceeding three (3) years shall be null and void.

11.9 Methods of Harvesting

11.9.1 A Cree may employ any type of method or technology to Harvest that does not conflict with a Non-quota Limitation on type of method or technology of Harvest established by the EMRWB under section 13.8.

11.10 Provision of Information

11.10.1 Information and sampling regarding Harvesting activities or Harvesting related activities required by Government or the EMRWB for the implementation of this Agreement or under Laws of General Application shall be supplied through the GDO or through the CTA. Government shall provide funding for such purposes.

11.11 Enforcement

11.11.1 Any penalties imposed on a Cree with respect to Harvesting in a manner contrary to this Agreement shall, as a general principle, be just and equitable, and shall not be more severe than those applicable to harvesters other than Crees in comparable situations.

11.12 Right of Access by Crees for Harvest

11.12.1 Except as otherwise set out in this Agreement, all Crees shall have free and unrestricted access throughout the EMR for the purpose of Harvesting.

11.12.2 The right of access set out in subsection 11.12.1 is subject to:

a) Laws of General Application enacted for the purpose of public safety;

b) any restrictions established by the EMRWB for the purposes of conservation;

c) in the case of Protected Areas, any bilateral agreement between the GCC(EI) and the management agency of such Protected Area;

d) any land use activity otherwise not in conflict with this Agreement to the extent that the right of access is incompatible with that land use activity and for only as long as is necessary to permit that land use to be exercised; and

e) Non-quota Limitations on type, method or technology of Harvest established for a Marine Protected Area.

11.12.3 In the event that a Cree or a GDO disagrees with any interested party as to the incompatibility of Harvesting activities with land use pursuant to paragraph 11.12.2 d), the matter shall be resolved through the dispute resolution process set out in Chapter 31.

11.12.4 In the case of an inconsistency or conflict between measures taken pursuant to paragraph 11.12.2 b)and paragraph 11.12.2 c), those measures taken under paragraph 11.12.2 c) shall prevail to the extent of such inconsistency or conflict.

11.12.5 The right of access set out in subsection 11.12.1 shall not extend to:

a) Lands that are dedicated to military or national security purposes or Lands being temporarily used for such purposes under the *National Defence Act*;

b) Lands, other than Cree Lands, that are:

(i) owned in fee simple at the Effective Date of this Agreement;

(ii) granted in fee simple after the Effective Date of this Agreement, where such parcel of Land is less than 1.6 square kilometres; or

(iii) subject to an agreement for sale at the Effective Date of this Agreement;

and visibly posted such that a reasonable person would recognize that such Lands were occupied and owned in fee simple;

c) on Cree Lands designated by the GDO and visibly posted such that a reasonable person would recognize that such Lands were so designated.

11.12.6 The right of access set out in subsection 11.12.1 is subject to limitations established for a Marine Protected Area provided that any such limitation shall limit Harvesting for the Basic Needs Level and the Adjusted Basic Needs Level only to the extent necessary to effect a conservation purpose in accordance with section 10.3 and section 10.4.

11.12.7 The right of access set out in subsection 11.12.1 shall not impede the exercise of the rights of navigation.

11.13 Emergency Kills

11.13.1 Notwithstanding anything else in this Agreement, an individual may kill Wildlife in the EMR if it is necessary to preserve a human life or to protect that individual's property.

11.13.2 Notwithstanding anything else in this Agreement, an individual may kill and consume Wildlife in the EMR where it is necessary to prevent starvation.

11.13.3 Subsections 11.13.1 and 11.13.2 shall not be construed as providing lawful excuse under any Law of General Application to

an individual who kills Wildlife as a result of his or her mismanagement.

11.13.4 Valuable parts of Wildlife killed under subsections 11.13.1 or 11.13.2 shall be disposed of by the EMRWB to a GDO.

11.14 Cree Guides

11.14.1 An individual other than a Cree who Harvests big game must:

a) hold a valid licence issued by the appropriate Government agency; and

b) for the period two (2) years following the acquisition of the licence, be accompanied by a Cree approved as a guide by the CTA or a Local CTA in accordance with any qualifications established by the EMRWB.

11.14.2 The requirement for a guide referred to in paragraph 11.14.1 b) shall not apply where the CTA waives such requirement or where no guides are approved by the CTA or a Local CTA.

11.14.3 For the purposes of this section, "***big game***" means the following:

- *Canis* – coyotes and wolves;
- *Gulo* – wolverine;
- *Ovibos* – muskox;
- *Ursus* –bears;
- *Odobenidae* – walrus;
- *Cervidae* – including caribou, moose, deer and reindeer.

11.15 Traditional Camps on Crown Lands

11.15.1 Crees may, subject to the terms of this Agreement, continue to occupy Traditional Camps on Crown Lands in the EMR and may also establish and occupy new Traditional Camps on any Crown Lands in the EMR where Crees enjoy a general right of access for the purpose of Harvesting.

11.15.2 Crees occupying Traditional Camps on Crown Lands shall cause no significant damage whether by way of physical alteration to the

Crown Lands or otherwise and shall be liable for damages caused to the Crown Lands. Crees exercising rights under this section have no right of action against Government for any loss or damage arising from the exercise of those rights.

11.15.3 Traditional Camps shall not be established on Crown Lands in the EMR that are subject to a surface lease.

11.15.4 Crees may establish Traditional Camps in any location in Protected Areas, except where the establishment of such camps is inconsistent with the requirements of any Protected Area management plan established pursuant to section 6.3. If a PAIBA has been established pursuant to the provisions of section 6.4, site locations may be determined as provided by the PAIBA.

11.15.5 Crees shall occupy a Traditional Camp referred to in subsections 11.15.1 and 11.15.4 as tenants-at-will. The tenancy-at-will shall continue until the Cree occupants receive written notice from Government terminating the tenancy-at-will.

11.15.6 Upon receipt of the written notice provided for in subsection 11.15.5, the occupants of the Traditional Camp shall have a reasonable period of time within which to remove their possessions.

11.15.7 Crees may occupy or establish Traditional Camps on Crown Lands in the EMR without any form of licence or permit, without paying rent and without the imposition of any form of fee.

11.15.8 The holders of rights in the subsurface of Lands on which Traditional Camps are erected shall enjoy the same rights of access as are available to subsurface rights holders under law.

11.15.9 Crees may establish, subject to subsection 11.15.4, Traditional Camps on Archaeological Sites. The GDO may develop policy guidelines for the use and occupation of Archaeological Sites and may put in place terms and conditions regarding the use and occupation of such sites taking into account applicable Legislation including the *Nunavut Archaeological and Palaeontological Sites Regulations*, SOR/2001-220.

SCHEDULE 11-1

1. All Mustelids (including mink, ermine, weasels, marten, fisher, otter, skunk and wolverines);
2. Beaver;
3. Lynx;
4. Foxes;
5. Polar bear;
6. Black bear;
7. Muskrat;
8. Porcupine;
9. Woodchuck;
10. Wolves;
11. Whitefishes (non-anadromous);
12. Sturgeon;
13. Suckers;
14. Burbot;
15. Hiodon (Mooneye and Goldeye);
16. Eiderdown from eider duck nest;
17. All migratory birds and their eggs but not for commercial purposes.

SCHEDULE 11-2

1. Caribou;
2. Willow Ptarmigan;
3. Rock Ptarmigan;
4. Arctic Hare;
5. Snowshoe Hare;
6. Spruce Grouse.

SCHEDULE 11-3

1. All species set out in Schedule 11-2;

2. Muskox.

CHAPTER 12

CREE TRAPPERS' ASSOCIATION

12.1 The powers and functions of the Cree Trappers' Association (CTA) under this Agreement shall include:

a) acting as a consultative body for its members to the EMRWB with respect to Wildlife matters in relation to the EMR;

b) the recommendation of Wildlife management measures in the EMR on behalf of its members;

c) the control and monitoring of Harvesting practices and techniques in the EMR among the Crees, including the use of Non-quota Limitations;

d) the allocation and enforcement of Basic Needs Levels and Adjusted Basic Needs Levels among the Crees;

e) generally, the management of Harvesting among the Crees in the EMR; and

f) such other matters as may be set out in this Agreement.

12.2 The CTA may create Local Cree Trappers' Associations and provide for rules related to their membership and operations. The CTA may delegate all or part of its powers and functions, including those set out in section 12.1, for a specific geographic area to a Local Cree Trappers' Association upon such terms and conditions as the CTA deems appropriate.

12.3 The CTA and the Local CTAs shall each develop and adopt their own by-laws guiding their functions set out in Part III.

12.4 No by-law or decision of the CTA or the Local CTAs shall unreasonably prevent an individual Cree from Harvesting for the purpose of meeting the consumption needs of himself or herself and his or her dependents.

12.5 Members of the CTA or the Local CTAs shall be subject to the by-laws of their respective organization.

12.6 Funding for the operation of the CTA and the Local CTAs to enable them to fulfill their functions pursuant to this chapter shall be provided to the CTA by the EMRWB. The EMRWB may request from the CTA an annual status report concerning its activities and those of the Local CTAs pursuant to this chapter.

12.7 The CTA and the Local CTAs shall not exercise their authority pursuant to paragraph 12.1 in such a way as to conflict with any other applicable Regulation governing Harvesting practices and techniques.

12.8 Where a right of action as a result of the provisions of Part III accrues to a Cree, the CTA or the Local CTA of which that Cree is a member may sue on that Cree's behalf.

12.9 Where the CTA or a Local CTA is failing to perform or to exercise its powers and functions set out in sections 12.1 or 12.2, the GCC(EI) may exercise those powers and functions until such time as the CTA or Local CTA resumes the exercise of those powers and functions.

CHAPTER 13

EEYOU MARINE REGION WILDLIFE BOARD

13.1 Membership

13.1.1 On the Effective Date of this Agreement, an institution of public government is hereby established to be known as the Eeyou Marine Region Wildlife Board (EMRWB) consisting of seven (7) members to be appointed as follows:

a) the GCC(EI) shall appoint three (3) members;

b) the federal Minister responsible for fish and marine mammals and the federal Minister responsible for the Canadian Wildlife Service shall each appoint one (1) member;

c) the government of Nunavut Minister responsible for Wildlife shall appoint one (1) member; and

d) from nominations provided by the members referred to in paragraphs a), b) and c), the federal Minister responsible for fish and marine mammals, in consultation with the federal Minister responsible for the Canadian Wildlife Service and jointly with the government of Nunavut Minister responsible for Wildlife, shall appoint a chairperson. For greater certainty, any nominations of the above mentioned members for chairperson shall be decided by consensus of those members, failing which, the nomination shall be decided by a majority of votes cast.

For greater certainty, a member appointed under paragraphs a) to c) above may be appointed as the chairperson and, in such circumstances, that member shall be replaced on the EMRWB in the manner provided in subsection 14.1.5.

13.1.2 The GCC(EI) and Government shall have the right to have technical advisors attend all meetings as non-voting observers.

13.2 Mandate of the EMRWB

13.2.1 The EMRWB shall be the main instrument of Wildlife management in the EMR and the main regulator of access to Wildlife and have the primary responsibility in relation thereto in the manner described in this Agreement. Accordingly, the EMRWB shall perform the following functions, taking into account the provisions of this Part III:

a) establishing, modifying or removing levels of Total Allowable Take for a species, stock or population of Wildlife, other than anadromous fish spawning in Québec, in accordance with section 13.5;

b) ascertaining the Basic Needs Level for a species, stock or population of Wildlife, other than anadromous fish spawning in Québec, in accordance with section 13.6;

c) adjusting the Basic Needs Level for a species, stock or population of Wildlife, other than anadromous fish spawning in Québec, in accordance with section 13.7;

d) allocating from the Total Allowable Take opportunities to Harvest a species, stock or population of Wildlife, other than anadromous fish spawning in Québec, in accordance with section 11.4;

e) establishing, modifying or removing Non-quota Limitations in accordance with section 13.8;

f) participating in research in accordance with section 13.3;

g) determining sufficiency of information and identifying and undertaking measures necessary to obtain the information to enable it to establish the Basic Needs Levels in accordance with section 13.6;

h) cooperating with other Wildlife management institutions which deal with species that are Harvested in the EMR and migrate outside the EMR;

i) setting any trophy fees on Wildlife Harvested in the EMR;

j) providing advice to any other management institutions as requested on all matters relating to management,

conservation, protection and regulation of Wildlife and Wildlife habitat; and

k) any other function the EMRWB is required to perform by this Agreement and not specifically referred to in Part III.

13.2.2 In addition to its primary functions outlined in subsection 13.2.1, the EMRWB may in its discretion perform the following functions related to management and protection of Wildlife and Wildlife habitat:

a) except for National Parks, National Park Reserves, National Marine Conservation Areas, National Marine Conservation Area Reserves and Territorial Parks, approve the establishment, disestablishment, and changes to boundaries of Protected Areas and Marine Protected Areas;

b) identify Wildlife management zones and areas of high biological productivity and provide recommendations to the EMRPC with respect to planning in those areas;

c) approve plans for management and protection of particular Wildlife habitats or critical habitats including areas within Protected Areas;

d) approve plans for:

(i) management, classification, protection, restocking or propagation, cultivation or husbandry of species or populations of Wildlife;

(ii) the regulation of imported non-indigenous species and the management of transplanted Wildlife populations;

e) provide advice to departments, the EMRIRB and other concerned agencies and appropriate Persons regarding mitigation measures and compensation to be required from commercial and industrial developers which cause damage to Wildlife habitat;

f) approve designation of species at risk;

g) provide advice as to requirements for the promotion of education, information and training of Crees for Wildlife management; and

h) any other functions assigned to it by this Agreement.

13.2.3 The EMRWB may perform other activities relating to the management of Wildlife in the EMR and to the regulation of access to Wildlife in the EMR as agreed by the EMRWB, Government and the GDO.

13.3 Research

13.3.1 There is a need for an effective system of Wildlife management, and to be effective, the system of management requires an efficient, coordinated research effort. The EMRWB, in fulfilling its management functions, requires an informed and effective role in Wildlife research and its direction. The ability and right of the governments of Canada and Nunavut to continue their own research functions shall not be prejudiced by this section. Accordingly, the EMRWB shall:

a) identify research requirements and deficiencies pertinent to Wildlife management and the rational utilization of Wildlife resources, and promote and encourage on an ongoing basis, research aimed at meeting requirements and overcoming deficiencies;

b) identify relevant Persons to undertake Wildlife research;

c) review research proposals and applications and, where appropriate, recommend on the acceptance or rejection of such proposals to the appropriate Government agency;

d) collect, classify, and disseminate Wildlife statistics and information and maintain a data base adequate for such purposes; and

e) carry out all other research functions consistent with its responsibilities.

13.3.2 To assist the EMRWB in carrying out its research functions pursuant to subsection 13.3.1, Canada shall provide the EMRWB,

or a trust established for that purpose, on the Effective Date of this Agreement a payment of five million dollars ($5,000,000).

13.3.3 Further to its responsibilities in subsection 13.3.1, the EMRWB shall:

a) establish and maintain an open file system for all raw and interpreted Wildlife data and information regardless of its source;

b) promote and encourage training for Crees in the various fields of Wildlife research and management;

c) promote and encourage the employment of Crees and the use of Cree Enterprises in research and technical positions made available through Government and private sector research contracts; and

d) prior to carrying out research, communicate and cooperate with residents of Eeyou Istchee and Consult with the GDO and other Cree Entities likely to be affected.

13.4 Proper Identification

13.4.1 The EMRWB, with the consent of the GDO, may determine that documentation is required as proper identification for the purposes of section 11.6. Such documentation must also be acceptable to Government.

13.5 Total Allowable Take

13.5.1 Subject to the terms of Part III, and except for anadromous fish spawning in Québec, the EMRWB shall have sole authority to establish or modify or remove from time to time as circumstances require levels of Total Allowable Take or Harvesting for all species in the EMR.

13.5.2 The Total Allowable Take will be expressed by the EMRWB for a species, stock or population by any method that the EMRWB considers appropriate.

13.6 Basic Needs Level

13.6.1 Where a Total Allowable Take has been determined by the EMRWB in accordance with section 13.5, the EMRWB shall establish a Basic Needs Level in accordance with Part III.

13.6.2 The Basic Needs Level shall reflect the following needs:

a) consumption or use by Crees;

b) marketing or trade by Crees for consumption or use in Eeyou Istchee; and

c) marketing or trade by Crees of fur bearing animals and pelts for personal economic needs.

13.6.3 A Basic Needs Level can be based, when the EMRWB considers it appropriate, on existing information. For a species, stock or population where the EMRWB determines that insufficient information exists to enable it to establish the Basic Needs Level, the EMRWB in conjunction with the CTA shall identify and undertake the measures necessary to obtain the information required to enable the EMRWB to effectively establish the Basic Needs Level.

13.7 Adjusted Basic Needs Level

13.7.1 The EMRWB shall periodically review the Basic Needs Level for each species, stock or population and determine whether an additional allocation is required to meet any or all of increased needs for:

a) consumption or use by Crees; and

b) marketing or trade by Crees for consumption or use in Eeyou Istchee.

13.7.2 In reaching its decision, the EMRWB shall take into consideration the following factors:

a) population growth and demographic change on a Cree community and regional basis, including the establishment of new Cree communities;

b) changing patterns of consumption and other uses including adjustments for marketing and trade in Eeyou Istchee;

c) the nutritional and cultural importance of Wildlife to Crees;

d) variations in availability of and accessibility to species other than the species under consideration; and

e) current use of Wildlife in the EMR for personal consumption by other residents of the coastal Cree communities of Eeyou Istchee, if any, in light of their length of residency.

13.7.3 The Adjusted Basic Needs Level may expand up to the entire Total Allowable Take. In any year the Adjusted Basic Needs Level may float upward or downward, but shall never fall below the Basic Needs Level.

13.7.4 The EMRWB shall conduct its review for various species, stocks or populations from time to time as requested by the appropriate Minister, by the CTA or by a member of the EMRWB.

13.8 Non-Quota Limitations

13.8.1 Subject to the terms of Part III, the EMRWB shall have sole authority to establish, modify or remove, from time to time and as circumstances require, Non-quota Limitations on Harvesting in the EMR.

13.8.2 The EMRWB may distinguish between Cree harvesters and other harvesters in establishing, modifying or removing Non-quota Limitations, but Non-quota Limitations for Cree harvesters shall not be more severe than Non-quota Limitations for other harvesters.

13.8.3 Non-quota Limitations established on Crees shall not unduly or unreasonably constrain their Harvesting activities.

13.8.4 For greater certainty, no Non-quota Limitation affecting Crees will be established unless conservation or public safety reasons justify such a measure.

13.8.5 Non-quota Limitations in force on the Effective Date of this Agreement and that were enforceable in regard to Crees are deemed to have been established by the EMRWB and shall remain in effect until removed or otherwise modified by the EMRWB in accordance with this chapter.

CHAPTER 14

EMRWB ADMINISTRATIVE PROCEDURES

14.1 Membership on the EMRWB

14.1.1 Each member on the EMRWB shall be appointed to hold office during good behaviour for a term of four (4) years. A member may be reappointed to office. In the initial appointment of the EMRWB members, one (1) member under paragraph 13.1.1 a), one (1) member under paragraph 13.1.1 b), one (1) member under paragraph 13.1.1 c) shall be appointed for four (4) years, and the other members under paragraphs 13.1.1 a) and b) shall be appointed for five (5) years. Thereafter, all appointments shall be for a term of four (4) years, except that any member appointed to replace any member whose term has not expired shall be appointed for the balance of the term of his or her predecessor.

14.1.2 A member may be removed from office at any time for cause by the body appointing him or her under subsection 13.1.1.

14.1.3 Each member shall, before entering upon his or her duties as such, take and subscribe before an officer authorized by law to administer oaths, an oath in the form set out in Schedule 14-1.

14.1.4 The law relating to conflict of interest shall apply to members, but no member who is a Cree shall be considered biased solely because the member is a Cree or because the member carries out Harvesting activities.

14.1.5 Where a vacancy occurs, a replacement member may be appointed by the body that made the original appointment under subsection 13.1.1 for the remainder of the original term.

14.1.6 All members of the EMRWB, except the chairperson, shall have one (1) vote, and the chairperson shall vote only in order to break a tie.

14.1.7 All decisions of the EMRWB shall be decided by consensus, failing which, they shall be decided by a majority of votes cast.

14.1.8 Each member may execute either a general or special proxy in favour of another member.

14.2 Meetings

14.2.1 A vacancy in the membership of the EMRWB does not impair the right of the remainder to act.

14.2.2 The head office of the EMRWB shall be in Eeyou Istchee.

14.2.3 The EMRWB shall meet as often as it deems fit, but no less than twice a year.

14.2.4 The chairperson may convene a meeting of the EMRWB at his discretion and shall convene a meeting of the EMRWB within twenty-one (21) days of receipt from any two members of the EMRWB of a written request indicating the purpose of such meeting.

14.2.5 The EMRWB shall, whenever practicable, meet in Eeyou Istchee.

14.2.6 The EMRWB shall conduct its business in Cree and, as required by Legislation or policy, in Canada's official languages.

14.2.7 Four (4) members physically present constitute a quorum, except that the EMRWB may modify the requirement for being physically present through a by-law permitting use of teleconference or like facilities.

14.3 Costs

14.3.1 The cost of the EMRWB shall be the responsibility of Government. The EMRWB shall prepare an annual budget subject to review and approval by Government.

14.3.2 Each member shall be paid fair and reasonable remuneration for work on the EMRWB.

14.3.3 Each member shall be entitled to be paid such traveling and living expenses incurred by him or her in the performance of his or her duties as are consistent with Federal Treasury Board guidelines for traveling and living expenses of public servants.

14.3.4 The costs of each non-voting observer shall be borne by the Person sending that observer.

14.4 By-laws

14.4.1 The EMRWB may make by-laws and rules respecting:

a) the calling of meetings and sittings of the EMRWB;

b) the conduct of business at meetings of the EMRWB and the establishment of special and standing committees of the EMRWB and the fixing of quorums for committee meetings;

c) the carrying on of the work of the EMRWB, the management of its internal affairs, and the duties of its officers and employees;

d) the procedure for making applications, representations and complaints to the EMRWB;

e) the procedure for collecting information and opinion, including the procedure and conduct of public hearings; and

f) generally, the manner of conducting any business before the EMRWB.

14.5 Officers and Employees

14.5.1 The officers and employees necessary for the proper conduct of business of the EMRWB may be engaged by and shall be remunerated by the EMRWB. Such officers and employees shall be responsible to and under the direction and control of the EMRWB.

14.6 Hearings

14.6.1 The EMRWB may hold public hearings into any issue requiring a decision on its part.

14.6.2 Any representative or agent of Government, the GCC(EI), a Cree Band, a Local CTA, the CTA and any individual Cree shall be accorded the status of full party at a public hearing and the EMRWB may, at its discretion and in conformity with its rules, determine whether any other Person is accorded the status of full party for the purpose of any particular public hearing.

14.6.3 The EMRWB may make rules distinguishing the roles reserved for full parties and roles reserved for other classes of participants at public hearings.

14.6.4 The EMRWB may, in any application, proceeding or matter of special importance pending before it, if in the opinion of the EMRWB the public interest so requires, hire counsel to conduct or argue the case or any particular question arising in the application, proceeding or matter.

14.6.5 The EMRWB shall have the same powers as commissioners appointed pursuant to Part I of the *Inquiries Act,* R.S.C. 1985, c. I-11, however, the EMRWB may not subpoena Ministers of the Crown.

14.7 Confidential Information

14.7.1 The EMRWB shall in obtaining and disclosing information be subject to Laws of General Application relating to confidentiality of, and access to, information as if it were a Government department.

14.7.2 Where Government has a discretion to disclose any information to the EMRWB, or the EMRWB has a discretion to disclose information to a member of the public, it shall take into account the objects of this Agreement in exercising that discretion.

14.8 Liability of the EMRWB

14.8.1 In discharging any duties or in exercising any powers in good faith, the EMRWB shall not be liable to any Person, for any loss or damage howsoever occurring.

14.9 Enforcement

14.9.1 Government shall be responsible for the implementation of effective and efficient enforcement measures in regards to Wildlife management in the EMR.

14.9.2 Insofar as qualified Crees are available, a predominant number of the individuals charged with enforcing Wildlife management and Legislation related to Wildlife in the EMR shall be Crees.

SCHEDULE 14-1

OATH OF OFFICE

I, ..., do solemnly affirm (or swear) that I will faithfully, truly, impartially and honestly and, to the best of my judgment, skill and ability, execute and perform the duties required of me as a member of the Eeyou Marine Region Wildlife Board.

(So help me God).

Signature

Solemnly affirmed (or sworn) before me at (*place* •), this (*date* •)

Signature
Commissioner of Oaths

CHAPTER 15

DECISIONS

15.1 Judicial Review

15.1.1 Judicial review of a decision of the EMRWB shall be available pursuant to section 28 of the *Federal Courts Act*, R.S.C. 1985, c. F-7 on the grounds set out in that Act, at the motion of a GDO or of a Person personally aggrieved or materially affected by the decision.

15.1.2 Except as provided for in subsection 15.1.1, no decision, order or direction of the EMRWB shall be questioned or reviewed in any court and no order shall be made or proceeding taken in any court whether by way of injunction, declaratory judgment, certiorari, mandamus, or prohibition or otherwise to question, review, prohibit or restrain the EMRWB or any of its proceedings.

15.2 Criteria for Decisions Restricting or Limiting Cree Harvesting by EMRWB or Minister

15.2.1 Notwithstanding any other provision of this Part III, decisions of the EMRWB or a Minister or the Executive Council made in relation to Chapter 11 or Chapter 13 shall restrict or limit Cree Harvesting only to the extent necessary:

a) to effect a conservation purpose in accordance with sections 10.3 and 10.4;

b) to give effect to the allocation system outlined in Chapter 11, to other provisions of Part III and to the provisions in this Agreement arising from Chapter 30; or

c) to provide for public health or public safety.

15.2.2 Certain populations of Wildlife found in the EMR cross jurisdictional boundaries and are Harvested outside the EMR. Accordingly, the EMRWB and the Minister in exercising their responsibilities in relation to subsection 13.2.1, paragraphs 13.2.2 b), c), d), f), h), and sections 13.5 to 13.7 inclusive, shall

also take account of Harvesting activities outside the EMR and the terms of domestic interjurisdictional agreements pertaining to Wildlife or an International Agreement Concerning Wildlife.

15.2.3 In making decisions affecting Protected Areas, the EMRWB and the Minister shall take into account the special purposes and policies relating to those areas.

15.2.4 Where a decision of the EMRWB is made in relation to a Basic Needs Level or Adjusted Basic Needs Level, the Minister or the Executive Council may reject or disallow that decision only if the Minister determines that the decision is not supported by or consistent with the evidence that was before the EMRWB or available to it.

15.3 Legal Effect of Decisions of the EMRWB (Government of Canada Jurisdiction)

15.3.1 All decisions made by the EMRWB in relation to paragraphs 13.2.1 a) to f) or 13.2.2 a), c), d) or f) or any provisions in this Agreement arising from Chapter 30 and subject to government of Canada jurisdiction shall be made in the manner set out in subsections 15.3.2 to 15.3.8.

15.3.2 When the EMRWB makes a decision, it shall forward that decision to the Minister. The EMRWB shall not make that decision public.

15.3.3 After receiving a decision of the EMRWB pursuant to subsection 15.3.2 the Minister shall within sixty (60) days or within such further period as may be agreed upon by the Minister and the EMRWB:

a) accept the decision and notify the EMRWB in writing; or

b) reject or vary the decision and give the EMRWB reasons in writing for so doing.

15.3.4 The Minister shall be deemed to have accepted the decision of the EMRWB when:

a) the Minister has so notified the EMRWB in writing, or

b) the Minister has not rejected or varied the decision within the time period and in the manner required pursuant to subsection 15.3.3.

15.3.5 Where the Minister accepts or is deemed to have accepted a decision of the EMRWB as provided in subsection 15.3.4, the Minister shall proceed forthwith to do all things necessary to implement that decision.

15.3.6 Where the Minister rejects or varies a decision of the EMRWB pursuant to subsection 15.3.3, the EMRWB shall reconsider the decision in light of the written reasons provided by the Minister and make a final decision, which it shall forward to the Minister. The EMRWB shall make the final decision public.

15.3.7 After receiving a final decision of the EMRWB made pursuant to subsection 15.3.6, the Minister may within sixty (60) days or within such further period as may be agreed upon by the Minister and the EMRWB :

a) accept the final decision;

b) reject the final decision; or

c) vary the final decision,

and shall provide reasons for rejecting or varying the decision.

15.3.8 Where a final decision has been received by the Minister pursuant to subsection 15.3.7 and the Minister decides to accept or vary the final decision, the Minister shall proceed forthwith to do all things necessary to implement the final decision or the final decision as varied.

15.4 Legal Effect of Decisions of the EMRWB (Government of Nunavut Jurisdiction)

15.4.1 All decisions made by the EMRWB in relation to paragraphs 13.2.1 a) to f) or 13.2.2 a), c), d) or f), or any provisions in this Agreement arising from Chapter 30 and subject to government of Nunavut jurisdiction, shall be made in the manner set out in subsections 15.4.2 to 15.4.9.

15.4.2 When the EMRWB makes a decision, it shall forward that decision to the Minister. The EMRWB shall not make that decision public.

15.4.3 After receiving a decision of the EMRWB pursuant to subsection 15.4.2, the Minister shall within sixty (60) days or within such further period as may be agreed upon by the Minister and the EMRWB:

a) accept the decision and notify the EMRWB in writing; or

b) reject or vary the decision and give the EMRWB reasons in writing for so doing.

15.4.4 The Minister shall be deemed to have accepted the decision of the EMRWB when:

a) the Minister has so notified the EMRWB in writing, or

b) the Minister has not rejected or recommended a variation of the decision within the time period and in the manner required pursuant to subsection 15.4.3.

15.4.5 Where the Minister accepts or is deemed to have accepted a decision of the EMRWB as provided in subsection 15.4.4, the Minister shall proceed forthwith to do all things necessary to implement that decision.

15.4.6 Where the Minister rejects a decision or recommends a variation of the decision of the EMRWB pursuant to subsection 15.4.3, the EMRWB shall reconsider the decision in light of the written reasons for the rejection or recommended variation of the decision provided by the Minister and make a final decision, which it shall forward to the Minister. The EMRWB shall make the final decision public.

15.4.7 Subject to subsection 15.4.9, after receiving a final decision of the EMRWB made pursuant to subsection 15.4.6, the Minister may within sixty (60) days or within such further period as may be agreed upon by the Minister and the EMRWB:

a) accept the final decision;

b) reject the final decision; or

c) vary the final decision,

and shall provide reasons for rejecting or varying the decision.

15.4.8 Where a final decision of the EMRWB is made in relation to paragraphs 13.2.1 a) to d) and the Minister disallows or varies the final decision, the Minister shall refer the final decision to the Executive Council of the government of Nunavut, which may:

a) accept the final decision;

b) reject the final decision; or

c) vary the final decision.

15.4.9 Where a final decision has been received by the Minister pursuant to subsection 15.4.7 and the Minister, or where applicable the Executive Council of the government of Nunavut, decides to accept or vary the final decision, the Minister shall proceed forthwith to do all things necessary to implement the final decision.

15.5 Interim Decision

15.5.1 When urgent and unusual circumstances require an immediate modification in Harvesting activities, the Minister or the Minister's delegated agent may make and implement any reasonable interim decision. The EMRWB shall conduct a full review as soon as practicable thereafter.

15.6 Ministerial Management Initiative

15.6.1 Nothing in this Part III prevents a Minister, on the Minister's own initiative, from referring a management matter to the EMRWB. Where a matter is referred, the EMRWB shall deal expeditiously with it. The EMRWB will respond to Ministerial initiatives with decisions in time to permit Ministers to meet their national and international obligations.

CHAPTER 16

WILDLIFE MANAGEMENT AND HARVESTING IN HUDSON BAY ZONE

16.1 In the event Government maintains a structure or structures to promote coordinated management for migratory Marine Species in the Hudson Bay Zone and adjacent areas, the EMRWB shall appoint appropriate Cree representation to such structure or structures.

16.2 A structure or structures referred to in section 16.1 shall not diminish the decision-making role of the EMRWB within the EMR.

16.3 Government shall seek the advice of the EMRWB with respect to any Wildlife management decisions in the Hudson Bay Zone which would affect the substance and value of Cree Harvesting rights and opportunities within the EMR. The EMRWB shall provide relevant information to Government that would assist in Wildlife management in the Hudson Bay Zone and adjacent areas.

16.4 Chapter 17 shall apply to any international or domestic interjurisdictional agreement relating to Wildlife management applicable to the Hudson Bay Zone.

16.5 The EMRWB may identify Wildlife research requirements and deficiencies, review research proposals and applications, and where appropriate recommend acceptance or rejection of such proposals or applications within the Hudson Bay Zone and, in making any decisions which affects the Hudson Bay Zone, Government shall consider such recommendations.

16.6 Government recognizes the importance of the principles of adjacency and economic dependence of Cree communities in Eeyou Istchee on Marine Resources, and shall give special consideration to these factors when allocating commercial fishing licences within the Hudson Bay Zone. Adjacency means adjacent to or within a reasonable geographic distance of the Hudson Bay Zone. The principles will be applied in such a way as to promote a fair distribution of licences between the Cree residents of Eeyou Istchee and the other residents of Canada and in a manner consistent with Canada's interjurisdictional obligations.

16.7 The EMRPC, the EMRIRB and the EMRWB may jointly, as a Cree Marine Region Council, or severally advise and make recommendations to Government agencies regarding any marine area outside of the EMR and Government shall consider such advice and recommendations in making decisions which affect any marine area outside of the EMR.

16.8 This chapter shall be interpreted in a manner consistent with Canada's sovereignty, sovereign rights and jurisdiction, and with Canada's international obligations.

CHAPTER 17

INTERNATIONAL AND DOMESTIC INTERJURISDICTIONAL AGREEMENTS

17.1 Any Legislation implementing an International Agreement Concerning Wildlife or a domestic interjurisdictional agreement concerning Wildlife shall be interpreted and administered to treat Crees on at least as favourable a basis as any other aboriginal people in Canada.

17.2 The government of Canada shall include Cree representation in discussions leading to the formulation of government positions in relation to an International Agreement Concerning Wildlife dealing with Wildlife Harvested in the EMR, which discussions shall extend beyond those discussions generally available to non-governmental organizations.

17.3 Cree representatives referred to in section 17.2 shall be nominated by a GDO.

17.4 Government agrees that the EMRWB shall have a role in the negotiation or amendment of domestic interjurisdictional agreements concerning Wildlife commensurate with its status and responsibilities in the management of Wildlife in the EMR.

17.5 Subject to section 17.1 all Harvesting in the EMR shall be subject to Legislation implementing those terms of an International Agreement Concerning Wildlife that were in existence at the Effective Date of this Agreement.

PART IV DEVELOPMENT AND ECONOMIC OPPORTUNITIES

CHAPTER 18
DEVELOPMENT IMPACT

18.1 Definitions

18.1.1 In this chapter:

« Certificat » ***"Certificate"*** means a certificate issued by the EMRIRB pursuant to subsections 18.5.12 and 18.6.17;

« Écosystémique » ***"Ecosystemic"*** means anything relating to the complex of a natural community of living organisms and its environment functioning as an ecological unit in nature;

« Ministre » ***"Minister"***, unless otherwise specified, means the federal or territorial Minister having the jurisdictional responsibility for authorizing a project to proceed; however, the governments of Canada and Nunavut may, within their respective jurisdictions, designate a single Minister to be responsible for the EMRIRB and to perform all functions assigned to "the Minister";

« Réapprovisionnement ordinaire des communautés » ***"Normal Community Resupply"*** means marine transportation whose primary purpose is the delivery to communities in Eeyou Istchee of foodstuffs, household goods, construction materials for housing and other community-oriented facilities, and related goods and materials;

« Promoteur » "***Proponent***", in respect of a Project Proposal, means the Person that proposes the project.

18.2 Eeyou Marine Region Impact Review Board (EMRIRB)

Establishment

18.2.1 An Eeyou Marine Region Impact Review Board (EMRIRB) is hereby established as an institution of public government.

Responsibility for the operation of the EMRIRB shall vest in the members of the EMRIRB.

Functions

18.2.2 The primary functions of the EMRIRB shall be:

a) to screen Project Proposals in order to determine whether or not a review is required;

b) to gauge and define the extent of the regional impacts of a project, such definition to be taken into account by the Minister in making his or her determination as to the regional interest;

c) to review the Ecosystemic and socio-economic impacts of Project Proposals;

d) to determine, on the basis of its review, whether Project Proposals should proceed, and if so, under what terms and conditions, and then report its determination to the Minister; in addition, the EMRIRB's determination with respect to socio-economic impacts unrelated to Ecosystemic impacts shall be treated as recommendations to the Minister; and

e) to monitor projects in accordance with the provisions of section 18.7.

18.2.3 In light of Chapter 19, the mandate of the EMRIRB shall not include the establishment of requirements for socio-economic benefits.

18.2.4 The EMRIRB shall carry out such other functions as are identified or contemplated in this Agreement, and such additional functions as may be agreed to from time to time by a GDO and Government or as may be set out in Legislation.

Primary Objectives

18.2.5 In carrying out its functions, the primary objectives of the EMRIRB shall be at all times to protect and promote the existing and future well-being of the residents in the EMR, and of the coastal Cree communities of Eeyou Istchee and of their members and to

protect the Ecosystemic integrity of the EMR. The EMRIRB shall take into account the well-being of residents of Canada outside the EMR.

Membership and Mode of Appointment

18.2.6 The EMRIRB shall be a board composed of five (5) members, one (1) of whom shall be the chairperson. The members shall be appointed as follows:

a) two (2) members shall be appointed by the federal Minister responsible for Indian and Northern Affairs, upon nomination by the GDO;

b) one (1) member shall be appointed by a Minister of the government of Canada;

c) one (1) member shall be appointed by the Minister responsible for Renewable Resources of the government of Nunavut;

d) from nominations agreed to and provided by members appointed under a) to c) above, the chairperson shall be appointed by the federal Minister responsible for Indian and Northern Affairs in consultation with the government of Nunavut and the GDO; and

e) in the nomination and appointment of a chairperson, preference shall be given to residents of Eeyou Istchee where candidates equally qualify.

For greater certainty, a member appointed under paragraphs a) to c) above may be appointed as the chairperson, and in such circumstance that member shall be replaced on the EMRIRB in the manner provided in subsection 18.2.10.

18.2.7 In the initial appointment of the EMRIRB members, one (1) member under paragraph 18.2.6 a), one (1) member under paragraph 18.2.6 b) shall be appointed for three (3) years, and the other members under paragraphs 18.2.6 a) and c) shall be appointed for four (4) years. Thereafter, all appointments shall be for a term of three (3) years, except that any member appointed to replace any member whose term has not expired shall be appointed for the balance of the term of his or her predecessor.

18.2.8 The chairperson shall be appointed for a three (3)-year term.

18.2.9 Members of the EMRIRB may be removed from office at any time for cause. A cause of removal may include circumstances where a member of the EMRIRB misses two consecutive meetings of the EMRIRB with at least thirty (30) days between both meetings.

18.2.10 Where a vacancy occurs, a replacement member may be nominated and appointed pursuant to the provisions of subsection 18.2.6 for the remainder of the term of the former member.

18.2.11 Members of the EMRIRB may be reappointed.

18.2.12 Members of the EMRIRB shall perform their duties in accordance with:

a) an oath following the form set out in Schedule 18-2, taken and subscribed before assuming office, before an officer authorized by law to administer oaths;

b) relevant Legislation relating to conflict of interest, provided that no board member who is Cree shall be considered biased solely because the member is a Cree; and

c) the terms of this Agreement.

18.2.13 Additional members may be appointed from time to time in the same manner and ratio as set out in paragraphs 18.2.6 a), b) and c). Such members may be appointed for a specific purpose, or for a term not exceeding three (3) years.

18.2.14 The EMRIRB may constitute itself into panels consisting of two (2) or more EMRIRB members. Such panels shall be composed of an equal number of Government and GDO nominees. The EMRIRB may delegate to a panel all or any powers of the EMRIRB, including the right to hold hearings.

Head Office, Meetings

18.2.15 The head office of the EMRIRB shall be in Eeyou Istchee.

18.2.16 The EMRIRB shall, whenever feasible, meet in Eeyou Istchee.

18.2.17 The EMRIRB shall conduct its business in Canada's official languages as required by Legislation or policy and, upon request by any member, also in the Cree language.

18.2.18 The chairperson may convene a meeting of the EMRIRB at his discretion and shall convene such a meeting within twenty-one (21) days of receipt, from any three (3) members, of a written request indicating the purpose of such meetings.

Quorum, Voting

18.2.19 All decisions of the EMRIRB shall be decided by a majority of the votes cast.

18.2.20 Each member other than the chairperson shall have one (1) vote on any matter requiring a decision of the EMRIRB. If there is a tie vote, the chairperson shall vote on the matter.

18.2.21 Three (3) members of the EMRIRB, including a member appointed pursuant to paragraph 18.2.6 a), shall comprise a quorum.

18.2.22 Vacancies in the EMRIRB shall not impair the right of the remainder to act.

By-laws and Rules of Procedure

18.2.23 In establishing by-laws, rules and procedures the EMRIRB shall, to the extent possible consider and take into account the by-laws and rules of the Nunavut Impact Review Board and the Nunavik Marine Region Impact Review Board.

18.2.24 Subject to subsection 18.2.23, the EMRIRB, may make and shall publish its by-laws and rules of procedure respecting:

a) the calling of meetings of the EMRIRB;

b) the conduct of business at meetings of the EMRIRB including the requirements with respect to physical presence and the use of teleconferencing or like facilities;

c) the establishment of special and standing committees of the EMRIRB, and the fixing of quorums for meetings thereof;

d) the carrying on of the work of the EMRIRB, the management of its internal affairs, and the duties of its officers and employees;

e) the procedures for making representations and complaints to the EMRIRB;

f) the procedures and guidelines for collecting information and opinions;

g) the procedures to be used and the admission of evidence at public hearings before the EMRIRB or the EMRIRB panels;

h) the establishment of standard guidelines for preparation of impact statements;

i) the form of an impact statement and the number of copies to be made available; and

j) generally, the manner of conducting any business of or before the EMRIRB;

Co-ordination with adjacent institutions

18.2.25 Subject to this Agreement, the EMRIRB may coordinate the discharge of its powers, functions or duties with other similar institutions having jurisdiction over areas adjacent to the EMR.

18.2.26 The EMRIRB shall make best efforts to coordinate the discharge of its powers, functions or duties with adjacent institutions.

Public Hearings

18.2.27 In designing its by-laws and rules of procedure for the conduct of public hearings, the EMRIRB shall:

a) to the extent consistent with the broad application of the principles of natural justice and procedural fairness, emphasize flexibility and informality, and, specifically

(i) allow, where appropriate, the admission of evidence that would not normally be admissible under the strict rules of evidence, and

(ii) give due regard and weight to the tradition of Cree oral communication and decision-making; and

b) with respect to any classification of intervenors, allow full standing to a GDO.

18.2.28 The EMRIRB shall have the power to subpoena witnesses, documents and things in carrying out its responsibilities.

18.2.29 The EMRIRB shall conduct its public hearings in Canada's official languages as required by Legislation or policy and, upon request of any member, applicant or intervenor, also in the Cree language.

18.2.30 All necessary steps shall be taken by way of notice, dissemination of information, and scheduling and location of hearings to provide and promote public awareness of and participation at hearings.

Officers and Employees

18.2.31 The officers and employees necessary for the proper conduct of the EMRIRB, including experts or anyone having technical knowledge, may be appointed, and shall be remunerated by the EMRIRB recognizing that secondment of government staff may be appropriate in certain cases.

18.2.32 Such officers and employees shall be responsible to, and under the direction and control of the EMRIRB.

18.2.33 All officers and employees of the EMRIRB shall conform to the same rules respecting conflict of interest as members of the EMRIRB.

Costs of the EMRIRB

18.2.34 The costs of the EMRIRB shall be the responsibility of Government. The EMRIRB shall prepare an annual budget subject to review and approval by Government.

18.3 Relationship to the Land Use Planning Provisions

18.3.1 Where the EMRPC determines, pursuant to subsection 8.5.12, that a Project Proposal is in conformity with the land use plans, or a variance has been approved, the EMRPC shall, subject to subsections 18.3.2, 18.3.3 and 18.4.3, forward the Project Proposal with its determination and recommendations to the EMRIRB for screening.

18.3.2 Project Proposals falling within Schedule 18-1 shall be exempt from the requirement for screening by the EMRIRB. The EMRPC shall not forward such Project Proposals to the EMRIRB.

18.3.3 Notwithstanding subsection 18.3.2, the EMRPC may refer a Project Proposal falling within Schedule 18-1 to the EMRIRB for screening, where the EMRPC has concerns respecting the cumulative impact of that Project Proposal in relation to other development activities in a planning region.

18.3.4 The EMRIRB shall not screen Project Proposals that are not in conformity with land use plans, unless an exemption has been received under subsection 8.5.13 or a variance has been approved under subsection 8.5.12.

18.3.5 Subsections 18.3.1 to 18.3.4 shall apply where a land use plan has been approved pursuant to subsection 8.5.11. In the absence of an approved land use plan, all Project Proposals other than those that fall within Schedule 18-1, subject to subsection 18.3.3, shall be referred directly by the EMRPC to the EMRIRB for screening.

18.4 Screening of Project Proposals

18.4.1 Upon receipt of a Project Proposal, the EMRIRB shall screen the Project Proposal to determine whether it has significant impact

potential, and therefore whether it requires review under section 18.5.

18.4.2 In screening a Project Proposal, the EMRIRB shall be guided by the following principles:

a) the EMRIRB generally shall determine that such a review is required when, in its judgment:

(i) the project may have significant adverse effects on the ecosystem, Wildlife habitat or Cree Harvesting activities;

(ii) the project may have significant adverse socio-economic effects;

(iii) the project will cause significant public concern; or

(iv) the project involves technological innovations for which the effects are unknown;

b) the EMRIRB generally shall determine that such a review is not required when, in its judgment, the project is unlikely to arouse significant public concern; and

(i) the adverse Ecosystemic and socio-economic effects are not likely to be significant; or

(ii) the project is of a type where the potential adverse effects are highly predictable and mitigable with known technology; and

c) in determining whether a review is required or not the EMRIRB shall give greater weight to the provisions of paragraph 18.4.2 a).

18.4.3 Any application for a component or activity of a Project Proposal that has been permitted to proceed in accordance with these provisions shall be exempt from the requirement for screening by the EMRIRB unless:

a) such component or activity was not part of the original Project Proposal; or

b) its inclusion would significantly modify the Project Proposal.

18.4.4 Upon receipt of a Project Proposal, the EMRIRB shall screen the Project Proposal and indicate to the Minister in writing and make public that:

a) the Project Proposal may be processed without a review under section 18.5; the EMRIRB may recommend specific terms and conditions to be attached to any approval, reflecting the primary objectives set out in subsection 18.2.5;

b) the Project Proposal requires review under section 18.5; the EMRIRB shall identify particular issues or concerns which should be considered in such a review;

c) the Project Proposal is insufficiently developed to permit proper screening, and should be returned to the Proponent for clarification; or

d) the potential adverse impacts of the Project Proposal are so unacceptable that it should be modified or abandoned.

18.4.5 The EMRIRB shall carry out its responsibilities under subsection 18.4.4:

a) where there is a legal requirement for a licensing authority to make a decision within a certain time period, within a time period that would allow the licensing authority to conform with that requirement;

b) with the approval of the Minister, within a time period exceeding forty-five (45) days; or

c) in any other situation, within forty-five (45) days.

18.4.6 Where the EMRIRB indicates to the Minister that a Project Proposal may be processed without review, the Project Proposal shall be processed under relevant Legislation, unless the Minister decides to refer it for such a review.

18.4.7 Within fifteen (15) days of receiving the EMRIRB determination that a Project Proposal may be processed without review, the Minister shall notify the EMRIRB if the Minister is referring or considering referring the Project Proposal for review. If the Minister does not notify the EMRIRB within this time period, the

Project Proposal may be processed without review. If the Minister notifies the EMRIRB that the Project Proposal is being referred or considered for referral for review, the Project Proposal shall not proceed. Following notification to the EMRIRB that the Minister is considering referring a Project Proposal for review, the Minister will either affirm the EMRIRB determination that the project proposal may be processed without review, refer the Project Proposal to the EMRIRB for review under section 18.5 or refer it to a federal panel for review under section 18.6.

Following the fifteen (15) day period, the EMRIRB shall advise the proponent that the Project Proposal may be processed without review or that it is being considered for referral.

18.4.8 Where the EMRIRB indicates to the Minister that a Project Proposal requires review, the Minister shall:

a) refer the Project Proposal to the Minister of the Environment of Canada for review, including a review of both socio-economic and Ecosystemic impacts, by a federal environmental assessment panel in accordance with section 18.6 where:

(i) the Project Proposal involves a matter of important national interest and a federal Minister determines that, for reasons stated in writing, the Project Proposal would be best reviewed under section 18.6, provided that:

A. a review pursuant to this subparagraph shall occur only on an exceptional basis and shall reflect the primary objectives of subsection 18.2.5;

B. such determination shall be made within ninety (90) days of the indication from the EMRIRB to the Minister that the Project Proposal requires review or within a further consecutive ninety (90) day period where the federal Minister notifies the EMRIRB in writing within the first ninety (90) days that such an extended period is required to make the determination; and

C. such determination shall be made following consultation with the Minister of the Environment of Canada, the territorial Minister responsible for the environment and the EMRIRB;

or:

(ii) the Project Proposal is to be carried out partly within the EMR and partly outside the EMR, unless the federal Minister, the Minister of the Environment of Canada and the EMRIRB agree that the Project Proposal will be reviewed pursuant to section 18.5; or

b) where a Project Proposal is not to be reviewed by a federal environmental assessment panel pursuant to paragraph a) above, refer the Project Proposal to the EMRIRB for a review of the Ecosystemic and socio-economic impacts in the EMR.

18.4.9 Where the EMRIRB indicates to the Minister that a Project Proposal should be returned to the Proponent for clarification, the Minister shall return the Project Proposal to the Proponent for clarification and resubmission to the EMRIRB to be dealt with in accordance with paragraph 18.4.4 a), b) or d).

18.4.10 Where the EMRIRB indicates to the Minister that a Project Proposal should be modified or abandoned, the Minister, after Consultation with the EMRIRB, shall:

a) return the Project Proposal to the Proponent for modification and resubmission to the EMRIRB to be dealt with in accordance with subsection 18.4.4;

b) where it appears to be in the national or regional interest that a Project Proposal be reviewed, refer the Project Proposal for review as provided in paragraph 18.4.8 a) or b) accompanied by written reasons for that decision; or

c) inform the Proponent that the Project Proposal should be abandoned.

18.5 Review of Project Proposals by the EMRIRB

18.5.1 In sending a Project Proposal for review, the Minister may identify particular issues or concerns which the EMRIRB shall consider in such a review. This shall not limit the EMRIRB from reviewing any matter within its mandate.

18.5.2 When a Project Proposal has been referred to the EMRIRB by the Minister for review, the EMRIRB shall, upon soliciting any advice it considers appropriate, issue guidelines to the Proponent for the preparation of an impact statement. It is the responsibility of the Proponent to prepare an impact statement in accordance with any guidelines established by the EMRIRB. Where the original Project Proposal submitted by the Proponent for screening contains the information required for an impact statement, the EMRIRB may accept the original Project Proposal instead of requiring the preparation of an impact statement. Where appropriate, an impact statement shall contain the following:

a) project description, including the purpose and need for the project;

b) anticipated Ecosystemic and socio-economic impacts of the project;

c) anticipated effects of the project on the Environment and vice versa;

d) steps which the Proponent proposes to take including any contingency plans, to avoid and mitigate adverse impacts;

e) steps which the Proponent proposes to take to optimize benefits of the project, with specific consideration being given to expressed community and regional preferences as to benefits;

f) steps which the Proponent proposes to take to compensate interests adversely affected by the project;

g) the monitoring program that the Proponent proposes to establish with respect to Ecosystemic and socio-economic impacts;

h) the interests in Lands, Water or Seawater which the Proponent has secured, or seeks to secure;

i) options for implementing the Project Proposal;

j) anticipated effects of the project on Wildlife and the use of Wildlife by Crees;

k) report on discussions carried out and agreements reached with concerned Cree communities;

l) a summary of the provisions and the main conclusions of the impact statement; and

m) any other matters that the EMRIRB considers relevant.

Hearings

18.5.3 The EMRIRB may conduct its review by means of correspondence, public hearings or such other procedures as it deems appropriate to the nature of the project and range of impacts.

Time Frames

18.5.4 The Minister may propose priorities and reasonable time frames for completion of the reviews.

Matters Taken into Account

18.5.5 The EMRIRB shall, when reviewing any Project Proposal, take into account all matters that are relevant to its mandate, including the following:

a) whether the project would enhance and protect the existing and future well-being of residents of the EMR, of individuals using the EMR, of the coastal Cree communities of Eeyou Istchee and of their members taking into account the interests of other Canadians;

b) whether the project would unduly prejudice the Ecosystemic integrity of the EMR;

c) whether the Project Proposal reflects the priorities and values of the individuals resident in or using the EMR and of the coastal Cree communities of Eeyou Istchee and of their members;

d) steps which the Proponent proposes to take to avoid and mitigate adverse impacts;

e) steps the Proponent proposes to take, or that should be taken, to compensate interests adversely affected by the project;

f) posting of performance bonds;

g) the monitoring program that the Proponent proposes to establish, or that should be established, for Ecosystemic and socio-economic impacts, including tracking the effectiveness of the steps referred to in paragraphs d) and e) above; and

h) steps which the Proponent proposes to take, or that should be taken, to restore Ecosystemic integrity following project abandonment including a procedure of community input for developing and implementing close out plans.

EMRIRB Report

18.5.6 After reviewing the Project Proposal, the EMRIRB shall make public and issue a report to the Minister and the Proponent containing:

a) its assessment of the project and its impacts;

b) its determination as to whether or not the project should proceed based on its assessment under paragraph a) above; and

c) in the event the project were to proceed, terms and conditions reflecting the primary objectives set out in subsection 18.2.5.

18.5.7 Upon receipt of the EMRIRB report, the Minister shall:

a) accept the report of the EMRIRB as to whether or not the project should or should not proceed, including terms and conditions;

b) where the EMRIRB has determined that a project should proceed, reject that determination on the basis that the Project Proposal is not in the national or regional interest; the Proponent shall be so advised by the EMRIRB; or

c) where the EMRIRB has determined that a project should proceed, reject the report on the grounds that:

(i) any of the terms and conditions are more onerous than necessary or insufficient to mitigate to an acceptable level the Ecosystemic and socio-economic impacts; or

(ii) the terms and conditions are so onerous that they would undermine the viability of a project that is in the national or regional interest;

and in such situations the EMRIRB shall reconsider the terms and conditions under which the project should be approved in light of the Minister's reasons;

d) where the EMRIRB has determined that a project should not proceed, reject that determination on the grounds that the project should have been approved because of its importance in the national or regional interest; thereupon, the Minister shall refer the report back to the EMRIRB to consider terms and conditions which should be attached to any project approval; or

e) where the report is deficient with respect to Ecosystemic and socio-economic issues, refer the report back to the EMRIRB for further review or public hearings; upon such further review or hearings, the EMRIRB shall submit a further report to the Minister which shall be accepted or rejected in accordance with paragraphs a), b), c) or d) above.

18.5.8 Upon considering or reconsidering the terms and conditions of a project approval further to paragraphs 18.5.7 c) or d), the EMRIRB shall:

a) within forty-five (45) days, or such time as agreed upon with the Minister, make any alterations it considers appropriate;

b) refer its revised report back to the Minister; and

c) make its revised report available to the public.

18.5.9 Upon receipt of a revised EMRIRB report under subsection 18.5.8, the Minister shall:

a) accept the terms and conditions; or

b) reject or vary the terms and conditions, in whole or in part, on the grounds set out in subparagraph 18.5.7 c) (i) or (ii).

18.5.10 The Minister shall supply the EMRIRB with written reasons for every decision. The EMRIRB shall make these reasons public.

18.5.11 Notwithstanding subsections 18.5.7 and 18.5.9, the EMRIRB's determination with respect to socio-economic impacts unrelated to Ecosystemic impacts shall be treated as recommendations to the Minister, which may be accepted, rejected or varied by the Minister without limitation to the grounds set out in subsections 18.5.7 and 18.5.9.

18.5.12 Upon completion of the process described in subsections 18.5.1 to 18.5.11 where it has been determined that a project should proceed, the EMRIRB shall issue a project Certificate including any terms and conditions which have been accepted or varied by the Minister.

18.6 Review by a Federal Environmental Assessment Panel

18.6.1 Where the Minister under paragraph 18.4.8 a) decides to refer a Project Proposal to the Minister of the Environment of Canada for public review by a federal environmental assessment panel, the panel shall conduct its review in accordance with the provisions of section 18.6 and with any other procedures, principles and general practices that provide at least the same opportunity for an open and comprehensive public review as was provided by the *Environmental Assessment and Review Process Guidelines Order* (S.O.R./84-467, 22 June, 1984).

Membership on Panels

18.6.2 For a Project Proposal within the EMR, the Minister of the Environment of Canada shall be free to appoint members to a panel in accordance with the Minister's general practice, except that at least one quarter (1/4) of the panel members shall be appointed from a list of nominees given to the Minister of the Environment of Canada by the GDO, and at least one quarter (1/4) from a list of nominees given to the Minister of the Environment of Canada by the appropriate Minister of the

government of Nunavut. Nothing shall prevent the GDO or the Minister of the government of Nunavut from nominating candidates who are already members of the EMRIRB.

18.6.3 When a Project Proposal would take place both inside the EMR and an adjacent area used by another aboriginal group or groups, at least one quarter (1/4) of the panel members shall be appointed from nominees of the GDO and the other relevant aboriginal group or groups, in accordance with any agreement between the GDO and the other aboriginal group or groups.

18.6.4 Members of panels shall:

a) be unbiased and free of any potential conflict of interest relative to the Project Proposal under review; for greater certainty no panel member who is a Cree shall be considered biased solely because the panel member is a Cree; and

b) have special knowledge and experience relevant to the anticipated technical, environmental or social effects of the Project Proposal under review.

Guidelines

18.6.5 Once constituted, a panel may issue to the project Proponent a set of guidelines for the preparation of a statement by the Proponent on Ecosystemic and socio-economic impacts. Any such guidelines shall, where appropriate, require the statement to contain information with respect to those matters listed in subsection 18.5.2. The EMRIRB shall review the guidelines and provide input into their development.

18.6.6 The panel shall ensure that the EMRIRB has adequate opportunity to review the Proponent's impact statement prior to commencement of public hearings, and the panel shall take into account any recommendations or concerns that the EMRIRB has identified.

Hearings

18.6.7 In the conduct of its public hearings under these provisions, a panel shall be bound *mutatis mutandis* by subsections 18.2.25,

18.2.27 and 18.2.28. The panel's powers, including any powers of subpoena, shall not be less than those available to federal environment assessment and review panels established under Laws of General Application.

Relevant Factors

18.6.8 The panel, when assessing any Project Proposal, shall take into account all matters that are relevant to its mandate, including as appropriate those matters listed in subsection 18.5.5.

Report

18.6.9 Upon completion of its review, the panel shall forward its report to the Minister of the Environment of Canada and the Minister, who shall make it public and who shall forward a copy to the EMRIRB.

18.6.10 Upon receipt of the report of the panel, the EMRIRB shall have sixty (60) days to review the report and forward its findings and conclusions to the Minister with respect to Ecosystemic and socio-economic impacts in the EMR. The EMRIRB may identify deficiencies in the panel report, additional terms, conditions and mitigative measures that should be attached to any project approval, additional data requirements, and any other conclusions deemed pertinent by the EMRIRB including whether or not the Project Proposal should proceed. In so doing, the EMRIRB shall be guided by the primary objectives set out in subsection 18.2.5.

18.6.11 Upon receipt of the panel report and the recommendations of the EMRIRB, the Minister shall:

a) accept the report with the terms and conditions proposed by the panel insofar as they apply to the EMR;

b) accept the report insofar as it applies to the EMR with modifications proposed by the EMRIRB; or

c) reject the panel report or any part thereof insofar as it applies to the EMR on the following grounds:

(i) the Project Proposal should be rejected on the grounds that the Project Proposal is not in the

regional or national interest, in which case the Proponent shall be so advised by the Minister;

(ii) the Project Proposal should be allowed to proceed because of its importance in the national interest, in which case the EMRIRB shall consider the terms and conditions with respect to the EMR which should be attached to any approval; or

(iii) any of the terms and conditions are more onerous than necessary or insufficient to mitigate to an acceptable level of Ecosystemic or socio-economic impacts of the project, in which case the EMRIRB shall thereupon reconsider the terms and conditions with respect to the EMR in light of the Minister's objections.

18.6.12 In considering or reconsidering the terms and conditions of a project approval, the EMRIRB shall, within thirty (30) days or such other period as agreed upon with the Minister, report back to the Minister, with respect to the terms and conditions which should be attached to any project approval.

18.6.13 Upon receipt of the EMRIRB's report further to subsection 18.6.12, the Minister shall:

a) accept the terms and conditions; or

b) reject or vary the terms and conditions, in whole or in part, on the grounds that:

(i) any of the terms and conditions are more onerous than necessary or insufficient to mitigate to an acceptable level the Ecosystemic and socio-economic impacts in the EMR; or

(ii) the terms and conditions with respect to the EMR are so onerous that they would undermine the viability of a project which is in the national interest.

18.6.14 The Minister shall supply the EMRIRB with written reasons for every decision insofar as such decision applies to the EMR.

18.6.15 The role of the EMRIRB with respect to any federal environmental assessment panel report shall be confined to those parts of that report that are applicable to or affect the EMR.

18.6.16 Notwithstanding subsections 18.6.11 and 18.6.13, the panel's report or the EMRIRB's determination with respect to socio-economic impacts unrelated to Ecosystemic impacts shall be treated as recommendations to the Minister, which may be accepted, rejected or varied by the Minister without limitation to the grounds set out in subsections 18.6.11 and 18.6.13.

18.6.17 Upon completion of the process described in subsections 18.6.1 to 18.6.16, the EMRIRB shall issue an EMRIRB project Certificate including any terms and conditions which have been accepted or varied by the Minister.

18.7 Monitoring

Project Monitoring

18.7.1 The terms and conditions contained in:

a) an EMRIRB project Certificate issued pursuant to subsection 18.5.12 or 18.6.17;

b) a recommendation of the EMRIRB pursuant to paragraph 18.4.4 a); or

c) any approvals issued by the Nunavut Water Board,

may provide for the establishment of a monitoring program for that project which may specify responsibilities for the Proponent, the EMRIRB or Government.

18.7.2 The purpose of a monitoring program set up pursuant to subsection 18.7.1 shall be:

a) to measure the relevant Ecosystemic and socio-economic impacts of projects in the EMR and on the Cree coastal communities of Eeyou Istchee and their members;

b) to determine whether and to what extent the land or resource use in question is carried out within the predetermined terms and conditions;

c) to provide the information base necessary for agencies to enforce terms and conditions of land or resource use approvals; and

d) to assess the accuracy of the predictions contained in the project impact statements.

18.7.3 Without limiting the generality of subsection 18.7.2, the monitoring program set up pursuant to that section may include:

a) a requirement that regulatory agencies and the Proponent supply the EMRIRB with reports and information respecting project operations and impacts, and the implementation of mitigative measures;

b) a requirement for a periodic evaluation by the EMRIRB of monitoring programs for projects;

c) based on paragraph b) above, a requirement that the EMRIRB compile a report on the adequacy of the monitoring program and on the Ecosystemic and socio-economic impacts of the project; and

d) considerations related to the cumulative impacts.

18.7.4 Responsible Government agencies and departments shall continue to fulfill their responsibilities for monitoring and data collection. Any monitoring responsibilities assigned to the EMRIRB shall not be a duplication of those functions.

18.7.5 Any monitoring program established for a project under subsection 18.7.1 shall be designed so as to avoid duplication of duties and to facilitate coordination of monitoring activities and may, in addition to any other relevant matters, provide for the factors to be monitored and the specifications for such program.

General Monitoring

18.7.6 There is a requirement for general monitoring to collect and analyze information on the long-term state and health of the Ecosystemic and socio-economic environment in the EMR.

Government, in co-operation with the EMRPC, shall be responsible for developing a general monitoring plan and for directing and coordinating general monitoring and data collection. The EMRPC shall:

a) in accordance with the plan, collate information and data provided by, amongst others, GDOs, industry, Government departments and agencies;

b) in accordance with the plan, report periodically on the Ecosystemic and socio-economic environment of the EMR; and

c) use the information collected under paragraphs a) and b) above to fulfill its existing responsibilities under Chapter 8.

18.7.7 The EMRPC may delegate any or all of its functions under subsection 18.7.6 to members of the EMRPC or officers or employees of the EMRPC.

18.8 Flexibility in Relation to Certificates

18.8.1 EMRIRB project Certificates may contain terms and conditions expressed to come into force at some time in the future or on the happening of any particular event or contingency.

18.8.2 The EMRIRB may on its own account, or upon application by a GDO, the Proponent, or other interested Persons, reconsider the terms and conditions contained in the EMRIRB Certificate if it is established that:

a) the terms and conditions are not achieving their purpose;

b) the circumstances relating to the project or the effect of the terms and conditions are significantly different from those anticipated at the time the Certificate was issued; or

c) there are technological developments or new information which provide a more efficient method of accomplishing the purpose of the terms and conditions.

18.8.3 Where the Minister determines that any of the conditions in paragraphs 18.8.2 a), b) or c) have been established, the EMRIRB shall reconsider the terms and conditions contained in a Certificate, and the EMRIRB shall produce a report of its reconsideration. The Minister may accept, reject or vary that report only on the grounds specified in subsection 18.6.13. The EMRIRB shall amend its Certificate to reflect any changes as accepted, rejected or varied by the Minister.

18.8.4 For greater certainty, subsection 18.5.4 applies to a reconsideration by the EMRIRB pursuant to subsections 18.8.2 or 18.8.3.

18.9 Implementation

18.9.1 Subject to subsection 18.9.3, the terms and conditions of EMRIRB project Certificates shall be implemented by all Government departments and agencies in accordance with their authorities and jurisdictional responsibilities.

18.9.2 Without limiting the generality of subsection 18.9.1, the terms and conditions of EMRIRB project Certificates shall, in accordance with the authorities and jurisdictional responsibilities of Government departments and agencies, be incorporated in relevant permits, certificates, licences or other Government approvals that the Proponent may require. Government departments and agencies shall discuss with the EMRIRB how best to implement the terms and conditions of EMRIRB project Certificates and may provide the EMRIRB with drafts of permits, certificates, licences and other Government approvals.

18.9.3 Where an independent decision of a regulatory board contains terms and conditions at variance with the terms and conditions of an EMRIRB project Certificate, the regulatory board shall provide reasons to Government and to the EMRIRB justifying the difference. The Governor in Council shall consider both the independent decision of the regulatory board and the EMRIRB project Certificate. The EMRIRB project Certificate shall prevail unless:

a) with respect to an independent decision of a regulatory board where Government does not have the authority to vary that decision, it is in the national or regional interest that the project proceed;

b) with respect to any other independent decision of a regulatory board, the project is considered to be in the national or regional interest and the acceptance of the terms and conditions in the EMRIRB project Certificate would undermine the viability of the project; or

c) an amendment to the EMRIRB project Certificate is accepted pursuant to subsection 18.8.3.

If the EMRIRB project Certificate does not prevail, the appropriate terms and conditions contained in the EMRIRB project Certificate shall be amended accordingly.

18.9.4 In this section, "independent decision of a regulatory board" means a decision made by a statutory body in the exercise of regulatory or licensing powers in the course of which the body is not subject to specific direction or control by Government; a decision does not cease to be an independent decision of a regulatory board merely because that decision is subject to a general direction whether by guidelines, Regulations or directives or to approval, variance or rescission by Government.

18.9.5 A decision ceases to be an independent decision of a regulatory board for the purposes of this section where Government has varied such a decision prior to considering the conflict between the decision and the EMRIRB project Certificate.

18.9.6 Where there is conflict between any EMRIRB project Certificate and a decision of a regulatory board not falling within subsection 18.9.3, the EMRIRB project Certificate shall prevail.

18.9.7 A licence, permit, certificate or other Government approval which implements or incorporates any term or condition of an EMRIRB project Certificate may not be called into question in a court of law on the grounds that the issuing agency thereby fettered its discretion or otherwise acted without jurisdiction, when implementing any term or condition of an EMRIRB project Certificate.

18.9.8 Nothing in subsections 18.9.1 to 18.9.7 shall preclude any regulatory or Government agency from reviewing a project and imposing additional or more stringent terms and conditions, or from refusing to issue a licence or approval that would be required in order to allow a proposed project to proceed.

18.9.9 The duty to implement referred to in subsection 18.9.1 does not include an obligation on Government to amend Legislation.

18.9.10 The EMRIRB and the EMRPC shall, unless they specify otherwise, receive copies of all approvals, regulatory or otherwise, for projects for which the EMRIRB has issued a project Certificate.

18.10 Enforcement

Projects Not to Proceed

18.10.1 No licence or approval that would be required in order to allow a proposed project to proceed shall be issued in respect of a project that is to be screened by the EMRIRB until the screening has been completed and, if a review pursuant to section 18.5 or 18.6 is to be conducted, until after that review has been completed and an EMRIRB project Certificate has been issued by the EMRIRB pursuant to this chapter.

Exceptions

18.10.2 Notwithstanding subsection 18.10.1, where a Project Proposal has been referred for review pursuant to section 18.5 or 18.6, approvals or licences for exploration or development activities related to that project may be issued if:

a) the activity falls within Schedule 18-1; or

b) the activity can, in the judgment of the EMRIRB, proceed without such a review.

Continuing Responsibilities

18.10.3 Where permits, certificates, licences or other Government approvals which implement or incorporate the terms and conditions of an EMRIRB project Certificate have been issued, the responsible Government department or agency shall continue to be responsible for the enforcement of the permit, certificate, licence or other Government approval.

18.10.4 Responsible Government departments and agencies shall apply effective techniques at their disposal for enforcement under subsection 18.10.3 and in applying such techniques, they shall not be confined to prosecution or to the suspension of any permit, certificate, licence or other Government approval.

Standing

18.10.5 In addition to any Person that is recognized by Laws of General Application as having standing to seek a court determination, a GDO shall have standing before an appropriate court:

a) to seek a determination as to whether any term or condition contained in an EMRIRB project Certificate has been implemented, and any remedy deemed appropriate by the court if the term and condition has not been implemented;

b) to obtain a court order compelling a Person to do or prohibiting a Person from doing whatever that Person is, by any licence, approval, permit or contract implementing any terms or conditions of an EMRIRB project Certificate, required to do or prohibited from doing; or

c) to seek judicial review of decisions and orders, whether interim or final, made pursuant to this chapter.

18.11 Transboundary Impacts

Transboundary Impacts

18.11.1 The EMRIRB may upon request by Government or, with the consent of Government, upon request by a GDO, review a Project Proposal located outside of the EMR which may have significant adverse Ecosystemic or socio-economic effects on the EMR.

18.11.2 Without limiting the jurisdiction of the EMRIRB as set out in this chapter, Government , assisted by the EMRIRB, shall use their best efforts to negotiate agreements with other jurisdictions to provide for collaboration in the review of Project Proposals which may have significant transboundary Ecosystemic or socio-economic impacts.

18.11.3 The provisions of subsections 18.11.1 and 18.11.2 do not give the EMRIRB legal authority over a project located outside of the EMR.

18.12 Application

Geographic Application

18.12.1 This chapter shall apply to the EMR including Cree Lands.

18.12.2 This chapter shall apply to both Land and Marine Areas within the EMR. Shipping associated with Project Proposals in the EMR shall be subject to this chapter. However, Normal Community Resupply or individual ship movements not associated with Project Proposals shall not be subject to sections 18.4, 18.5 and 18.6.

18.12.3 This chapter applies to the installations, facilities and activities required for the purpose of national defence. However, such installations, facilities and activities will be exempted from these provisions on an exceptional basis upon certification by the Minister of National Defence that an exemption is required in the interests of national security for reasons of confidentiality or urgency.

Limitations

18.12.4 No term or condition which contravenes any standard established by any federal or territorial environmental or socio-economic Laws of General Application, may be imposed pursuant to this chapter.

18.12.5 Decisions made pursuant to this chapter shall be designed, implemented and interpreted in a manner consistent with Part III.

No Statutory Defence

18.12.6 The issuance of an EMRIRB project Certificate shall not provide a defence of statutory authorization to an action in tort.

Canadian Environmental Assessment Act

18.12.7 The *Canadian Environmental Assessment Act*, S.C., 1992, c 37, and any successor Legislation replacing that Act, shall not apply within the EMR.

SCHEDULE 18-1

TYPES OF PROJECT PROPOSALS EXEMPT FROM SCREENING

(SUBSECTIONS 18.3.2, 18.3.3, 18.3.5, 18.10.2)

1. Land use activities not requiring a permit or authorization from Government.

2. Land use activities requiring only a Class B permit under the *Territorial Land Use Regulations*, C.R.C., c. 1524 as it reads on the Effective Date of this Agreement.

3. All construction, operation and maintenance of all buildings and services within an established community, except for bulk storage of fuel, power generation with nuclear fuels, or hydro power and any industrial activity.

4. All hotels, motels or tourist facilities of twenty (20) beds or less in all.

5. Water uses that do not require a public hearing under subsection 13.7.3 of Nunavut Land Claims Agreement.

6. Prospecting, staking or locating a Mineral claim unless it requires more than a Class B permit mentioned in point 2 above.

7. Such other categories of activities and projects as may be agreed upon by the EMRIRB and the appropriate Minister.

SCHEDULE 18-2

OATH OF OFFICE

I, ..., do solemnly affirm (or swear) that I will faithfully, truly, impartially and honestly and, to the best of my judgment, skill and ability, execute and perform the duties required of me as a member of the Eeyou Marine Region Impact Review Board.

(So help me God).

_____

Signature

Solemnly affirmed (or sworn) before me at (*place* •), this (*date* •)

_____

Signature
Commissioner of Oaths

CHAPTER 19

IMPACT AND BENEFIT AGREEMENTS

19.1 Definitions

In this chapter:

« Dépenses en immobilisations »

"*Capital Costs*" shall consist of expenditures for designing, procuring, constructing and installing all buildings, housing, machinery and equipment and Infrastructure associated with a project, including any such costs incurred outside of the EMR in relation to the project; but shall not include financing costs;

« Infrastructure »

"*Infrastructure*" shall be considered as any transportation facilities directly in support of a project, such as a marine port, airport, road, railway, pipeline or power transmission line;

« Projet de mise en valeur important »

"*Major Development Project*" means any government, Crown corporation or private sector project that either entails, within the EMR during any five-year period, more than 200 person years of employment, or entails Capital Costs in excess of thirty-five million dollars ($35,000,000), in constant 2001 dollars, including, where Government is the Proponent for a portion of a development project or directly-related Infrastructure, the Capital Costs and employment projections for the Government portion of the project;

« Partie » ou « Parties »

"*Party*" or "*Parties*" means a party or parties to an IBA or negotiations leading thereto.

19.2 Obligation to Finalize

19.2.1 Subject to subsections 19.10.1 to 19.10.3, no Major Development Project may commence until an Impact and Benefit Agreement (IBA) is finalized in accordance with this chapter.

19.3 Parameters for Negotiation and Arbitration

19.3.1 An IBA may include any matter connected with the Major Development Project that could have a detrimental impact on Crees or that could reasonably confer a benefit on Crees. Without limiting the generality of the foregoing, the matters identified in

Schedule 19-1 shall be considered appropriate for negotiation and inclusion within an IBA.

19.3.2 An IBA shall be consistent with the terms and conditions of project approval, including those terms and conditions established pursuant to any development impact review.

19.3.3 Negotiation and Arbitration of IBAs shall be guided by the following principles:

a) benefits shall be consistent with and promote Cree cultural goals;

b) benefits shall contribute to achieving and maintaining a standard of living among Crees equal to that of individuals other than Cree living and working in Eeyou Istchee, and to Canadians in general;

c) benefits shall be related to the nature, scale and cost of the project as well as its direct and indirect impacts on Crees;

d) benefits shall not place an excessive burden on the proponent and undermine the viability of the project; and

e) IBAs shall not prejudice the ability of other residents of the EMR to obtain benefits from major projects in the EMR.

19.4 Negotiations

19.4.1 At least one hundred and eighty (180) days prior to the proposed start-up date of any Major Development Project, a GDO and the proponent, unless they otherwise agree, will commence negotiations, in good faith, for the purpose of concluding an IBA.

19.4.2 Where the proponent and the GDO agree on the contents of an IBA, the agreement shall be written in the form of a contract. Once agreement has been reached, the Parties shall send a copy to the Minister.

19.5 **Arbitration**

19.5.1 Where full agreement has not been reached within sixty (60) days after negotiation has commenced, either Party may apply for Arbitration pursuant to Part B of Chapter 31. The scope of the Arbitration shall include the full range of benefits possible in an IBA, unless the Parties agree the range should be restricted.

19.5.2 The Arbitrators shall:

a) ascertain the views and proposals of the Parties;

b) submit a decision in the form of a contract to the Parties; and

c) send a copy of the decision to the Minister.

19.6 **Extension of Time**

19.6.1 The Parties negotiating an IBA may agree to waive any of the time periods referred to in sections 19.4 and 19.5.

19.7 **Coming Into Effect**

19.7.1 An IBA shall take effect thirty (30) days after its receipt by the Minister.

19.8 **Enforcement**

19.8.1 An IBA may be enforced by either Party in accordance with the common law of contract. In any deliberation as to the remedy of specific performance due regard shall be given at all times to the desirability of protecting Cree lifestyle and culture and providing Crees with opportunities for economic advancement.

19.9 **Renegotiation**

19.9.1 Except where otherwise agreed by the proponent and the GDO, an IBA shall provide for its renegotiation.

19.10 Other Matters

19.10.1 The GDO and the proponent of a Major Development Project may agree that an IBA is not required.

19.10.2 In cases of military or national emergency, the Minister may allow commencement of a Major Development Project prior to the conclusion of an IBA.

19.10.3 If, once negotiations have begun on an IBA, the proponent finds it necessary for the project to start sooner than the projected start-up date, the Minister may, if the project has received approval from the appropriate agencies, authorize the project to commence:

a) if the Parties agree; or

b) if the delay would jeopardize the project.

Where the Minister proposes to exercise this authority, the Minister shall Consult with the Parties and, where they have been appointed, the Arbitrators.

19.10.4 If, pursuant to subsections 19.10.2 or 19.10.3, a Major Development Project commences prior to an IBA being concluded, the Arbitrators shall ensure that benefits received by the Crees shall include compensation, which may be in the form of replacement benefits, for the benefits lost through the early commencement of the Major Development Project.

19.10.5 Subject to Laws of General Application, where an IBA has been concluded which is at least equal to Government requirements respecting the mitigation of impacts or provision of benefits for aboriginal peoples, Government may accept the IBA as sufficient to satisfy those requirements.

SCHEDULE 19-1

MATTERS FOR POSSIBLE INCLUSION IN AN IMPACT AND BENEFIT AGREEMENT (IBA) (SUBSECTION 19.3.1)

1. Training of Crees at all levels;
2. Preferential hiring of Crees and preferential contracting for Cree Enterprises;
3. Employment rotation reflecting Cree needs and preferences;
4. Scholarships for Crees;
5. Special working conditions;
6. Business opportunities for Cree Enterprises including:
   (a) provision of seed capital;
   (b) provision of expert advice;
   (c) notification of business opportunities;
   (d) preferential contracting practices;
   (e) participation in the project;
7. Housing, accommodation and recreation;
8. Safety, health and hygiene;
9. Language of workplace;
10. Identification, protection and conservation of Archaeological Sites and specimens;
11. Research and development;
12. Cree access to facilities constructed for the project such as airfields and roads;
13. Particularly important Cree environmental concerns and disruption of Wildlife, including Wildlife disruption compensation schemes;
14. Traditional Camps;

15. Information flow and interpretation, including liaison between the Crees and the proponent regarding project management and Cree participation and concerns;

16. Relationship to prior and subsequent agreements;

17. Co-ordination with other developments;

18. Arbitration and amendment provisions;

19. Implementation and enforceability, including performance bonds and liquidated damages clauses;

20. Obligations of subcontractors;

21. Any other matters that the Parties to the IBA consider to be relevant to the needs of the project and of the Crees.

CHAPTER 20

WILDLIFE COMPENSATION

20.1 In this chapter:

« Demandeur » "***Claimant***" means a Cree;

« Indemnité » "***Compensation***" means monetary compensation, including cash payment in a lump sum or by instalments, and also includes non-monetary compensation such as the cost of temporary or permanent relocation, replacement or repair of property, and reimbursement in kind, subject to conservation limits, or any combination thereof;

«Entrepreneur » "***Developer***" means any Person engaged in Development Activity;

« Activité de développement » "***Development Activity***" means any commercial or industrial undertaking, or any extension thereof, including those undertaken in the EMR by any municipal, territorial, provincial or federal government, but does not include:

(a)marine transportation excluding marine infrastructure; or

(b)any Wildlife measure or use approved in accordance with Part III;

« Cas fortuit » "***Fortuitous Event***" means an act of war, hostilities, civil war, insurrection or natural phenomenon of an exceptional, inevitable and irresistible character.

20.2 Unless inconsistent with a specific provision of this chapter, Part B of Chapter 31 shall apply to an Arbitration undertaken pursuant to this chapter.

20.3 For greater certainty, in the case of Development Activities, if any, begun prior to and continuing on the Effective Date of this Agreement, this chapter applies only in respect of that portion of those Development Activities occurring on or after the Effective Date of this Agreement.

20.4 Subject to section 20.5, this chapter shall apply to marine transportation occurring on or after the Effective Date of this Agreement that is directly associated with any Development

Activity, but does not apply to marine transportation not directly associated with such undertaking.

20.5 There shall be a Person, a fund or both, specified by the government of Canada capable of assuming liability for marine transportation imposed under this chapter by section 20.4 and that specified Person, or fund, or both shall be considered to be a Developer and that marine transportation shall be considered to be a Development Activity for the purpose of this chapter.

20.6 In respect of commercial marine transportation through Water or Seawater in the EMR, other than for marine transportation to which this chapter applies pursuant to section 20.4, Crees will be entitled to Wildlife compensation under Laws of General Application.

20.7 A Developer is liable absolutely, without proof of fault or negligence, for loss or damage suffered by a Claimant as a result of its Development Activities in respect of:

a) loss or damage to property or equipment used in Harvesting or to Wildlife reduced into possession;

b) present and future loss of income from Harvesting; and

c) present and future loss of Wildlife Harvested for personal use by Claimants.

20.8 A Developer is not liable where that Developer establishes that the loss or damage was wholly the result of a Fortuitous Event.

20.9 Claimants shall make all reasonable efforts to mitigate against any loss or damage.

20.10 With respect to flora, a Developer is liable under section 20.7 for those species listed in Schedule 20-1. Schedule 20-1 shall be reviewed by the Parties every five (5) years for the purposes of updating the list of species in Schedule 20-1, if necessary, on the anniversary date of the Effective Date of this Agreement.

20.11 Legislation may provide for appropriate limits of liability of Developers or the methods of setting such limits and shall also require proof of fiscal responsibility and may also provide for security deposits and any other matters not inconsistent with this chapter. Limits on liability will be set at levels sufficient to cover

reasonably foreseeable damages in relation to various Development Activities. Recognizing Cree concerns regarding enforcement of Compensation decisions, Government will give consideration to including enforcement mechanisms in Legislation.

20.12 A Claimant or a GDO on behalf of a Claimant shall make a claim for loss or damage in writing to the Developer. If the claim is not settled within thirty (30) days, the Developer or the Claimant or a GDO on behalf of the Claimant may submit the claim to Arbitration.

20.13 For the purposes of this chapter only, a Claimant may also bring to Arbitration claims in respect to Development Activities in the Hudson Bay Zone and the claim will be dealt with in accordance with this chapter.

20.14 In hearing a claim, the Arbitrators are not bound by strict rules of evidence and may take into account any fact or material that it considers relevant. The Arbitrators, in hearing a claim, shall give due weight to Cree knowledge of Wildlife and the Environment and shall take into account the social, cultural and economic importance of Wildlife to the Crees.

20.15 The Arbitrators may appoint experts and may call witnesses.

20.16 As a general principle, Compensation shall not be a guaranteed annual income in perpetuity. A Compensation award may be reviewed by the Arbitrators at the request of either party to the hearing.

20.17 A claim must be made within three (3) years of the date on which the loss or damage occurred, or within three (3) years of the date on which the loss or damage became known to the Claimant.

20.18 The Arbitrators shall hear the case and determine liability and Compensation within one hundred and eighty (180) days of the date that the claim was submitted to it or within such further period of time as the parties to the hearing may otherwise agree in writing. The Arbitrators shall make a decision within thirty (30) days of completing the hearing of a claim.

20.19 Recognizing that it is the intention that loss or damage suffered by a Claimant should be minimized by expeditious processing of claims and payment of Compensation, the Arbitrators may:

a) deal with a claim in respect of loss or damage to property or equipment used in Harvesting or to Wildlife reduced into possession before proceeding to hear evidence on any other loss or damage;

b) require that interest be paid on monetary Compensation at a rate set by the Arbitrators; and

c) provide for additional Compensation to cover any additional loss or damage, or costs, including costs of collection, that may result from any delay in fulfilling the terms of the Compensation decision.

20.20 At the request of a Claimant, the Arbitrators shall register the Compensation decision in a court of competent jurisdiction and the Claimant may use that court to enforce the decision. The Arbitrators may provide assistance in the enforcement of its decision.

20.21 In deciding upon the location of a hearing of the Arbitrators, the convenience of the Claimant shall be a major factor in the decision of the Arbitrators. However, as a general rule hearings will be held in Eeyou Istchee.

20.22 When the Arbitrators determine that loss or damage was caused by more than one (1) Developer, those Developers shall be severally liable. The Arbitrators may apportion liability in accordance with generally accepted principles of law.

20.23 The remuneration and expenses incurred by the Arbitrators in determining claims under this chapter shall be borne by the government of Canada.

20.24 The provisions of this chapter are without prejudice to any other rights or remedies that a Claimant may have under law with respect to loss or damage arising out of a Development Activity. However, if the claim is referred to Arbitration under section 20.12, the decision of the Arbitrators shall be conclusive in relation to all losses and damages described in section 20.7 subject only to review by the Federal Court of Appeal under section 28 of the *Federal Courts Act*. If the claim against a Developer is dismissed, a Claimant is not precluded from claiming the same loss or damage against a different Developer.

20.25 Nothing in this chapter shall be construed as limiting or restricting any right of recourse that a Developer who is found liable under this chapter may have against any Person other than the Claimant.

20.26 Nothing in this Agreement shall prevent the GCC(EI) and a Developer from entering into a compensation agreement that would replace all other obligations in relation to Wildlife Compensation under this chapter.

SCHEDULE 20-1
LIST OF SPECIES
(SECTION 20.10)

1. Terrestrial

Abies balsamea	Balsam fir
Alnus incana subs. Rosa	Speckled alder
Larex laricina	Eastern larch, tamarack
Picea mariana	Black spruce
Picea glauca	White spruce
Pinus banksiana	Jack pine, grey pine
Rhododendron canadense	Canadian rhododendron
Sarracenia	*purpurea* Pitcher plant
Sorbus americana	Mountain ash
Ledum groenlandicum	Labrador tea
Vaccinium angustifolium	Blueberry
Cassandra calyculata	Leather leaf
Kalmia angustifolia	Sheep laurel
Hierochloe odorata	Sweetgrass

2. Intertidal/salt-tolerant shoreline (beach)

Calamagrostis spp	Reed grasses
Festuca spp.	Fescues
Carex paleacea	Sedges
Puccinellia spp.	Puccinellia
Hippuris vulgaris	Mare's tail
Eleocharis spp.	Spike rushes
Potamogeton spp.	Pondweeds

3. Sub-tidal

Zostera marina	Eelgrass
Ruppia maritima	Widgeon grass
Fucus sp	Rockweeds
Laminaria digatata	Horsetail kelp
Ulva latuca	Sea lettuce
Phyllophora sp.	Leaf weeds
Euthora cristata	Lacy red weed
Rhodymenia palmata	Dulse
Alaria sp.	Edible kelps

CHAPTER 21

GOVERNMENT EMPLOYMENT AND CONTRACTS

21.1 Definitions

« Marché de l'État »

"***Government Contract***" means a contract, other than a contract for employment in the Federal or Territorial Public Service, between the Government of Canada or the Government of Nunavut and a party other than Government or any other government for procurement of goods or services and includes:

a) contracts for the supply of goods;

b) construction contracts;

c) contracts for the supply of services; and

d) leases other than leases respecting real property;

"Gouvernement du Canada"

"***Government of Canada***" means all departments, as defined in section 2 of the *Financial Administration Act*, R.S. 1985, c. F-11;

"Gouvernement du Nunavut"

"***Government of Nunavut***" means all departments and agencies, including departmental corporations and branches designated as public agencies, for purposes of the *Nunavut Financial Administration Act*, R.S.N.W.T. 1988, c. F-4, as duplicated for Nunavut by section 29 of the *Nunavut Act*, S.C. 1993, c. 28.

21.1.1 In this chapter:

21.2 Employment

21.2.1 Government undertakes to take all reasonable and timely measures to provide Crees with priority with respect to public service employment opportunities in the EMR.

21.2.2 If public service employment opportunities exist in the EMR, Government is committed to awarding those opportunities so as to achieve a public service in the EMR that reflects the ratio of Crees to all other residents in Eeyou Istchee.

21.2.3 Government shall remove employment barriers for Crees in relation to public service positions within the EMR by reviewing job qualifications and recruitment procedures and removing inappropriate requirements in respect of cultural factors, experience or education.

21.3 Contracts

21.3.1 Government shall provide reasonable support and assistance to Cree Enterprises as set out in the following subsections to enable them to compete for Government Contracts.

21.3.2 For Government Contracts for the procurement of goods or services in the EMR, qualified Cree Enterprises shall, subject to meeting the technical and administrative conditions of the request for goods or services, be given fair consideration.

21.3.3 In inviting bids on Government Contracts for the procurement of goods or services in the EMR, Government shall provide all reasonable opportunities to Cree Enterprises enumerated on the list referred to in subsection 21.3.5 to submit competitive bids and in doing so, shall take, where practicable and consistent with sound procurement management, the following measures:

a) set the date, location and terms and conditions for bidding so that Cree Enterprises may readily bid;

b) invite bids by commodity groupings to permit smaller and more specialized firms to bid;

c) permit bids for goods and services for a specified portion of a larger contract package to permit smaller and more specialized firms to bid;

d) design construction contracts so as to increase the opportunity for smaller and more specialized firms to bid; and

e) avoid artificially inflated employment skills requirements not essential to the fulfillment of the contract.

21.3.4 Whenever practicable and consistent with sound procurement management, and subject to Canada's international obligations, all of the following criteria, or as many as may be appropriate with respect to any particular contract, shall be included in the bid criteria established by Government for the awarding of its

Government Contracts for the procurement of goods and services in the EMR:

a) the existence of head offices, administrative offices or other facilities in Eeyou Istchee;

b) the employment of Cree labour, engagement of Cree professional services, or use of suppliers that are Cree or Cree Enterprises in carrying out the contracts; and

c) the undertaking of commitments, under the contract, with respect to on-the-job training or skills development for Crees.

21.3.5 The GCC(EI) shall prepare and maintain a comprehensive list of Cree Enterprises, together with information on goods and services which they would be in a position to supply in relation to Government Contracts. This list shall be considered, where practicable and consistent with sound procurement practices, by Government in meeting its obligations under this chapter.

21.4 Special Provisions Relating to Government of Nunavut Employment and Contracts

21.4.1 The Government of Nunavut may implement Inuit Employment Plans, policies and Legislation which give priority to Inuit of Nunavut, and other distinct groups, to Public Service employment opportunities in the EMR provided Crees are given first priority for Public Service employment opportunities in a manner consistent with this chapter.

21.4.2 Notwithstanding subsection 21.4.1, the Government of Nunavut may implement policies and Legislation, including the existing Nunavummi Nangminiqaqtunik Ikajuuti policy, that extend an incentive or bid adjustment and labour bonus to registered local, Nunavut and Inuit firms in the EMR provided Cree Enterprises are given or credited equivalent benefits as those provided under that policy and given first priority for contracts for the procurement of goods or services in a manner consistent with this chapter.

21.4.3 In the event of a conflict or inconsistency between this chapter and any Government of Nunavut policies or Legislation referred to in subsections 21.4.1 and 21.4.2, this chapter shall prevail to the extent of the conflict or inconsistency.

PART V FUNDING ARRANGEMENTS

CHAPTER 22
CAPITAL TRANSFER

22.1 **Capital Transfer Payments to the Recipient of Payments**

22.1.1 Canada shall make capital transfer payments to the Recipient of Payments as set out in Schedule 22-1 of this chapter which shall be calculated by deducting from each amount listed in the Capital Transfer Schedule set out in Schedule 22-2, the corresponding payment from the Negotiation Loans Repayment Schedule set out in Schedule 22-3.

22.1.2 For the purposes of this chapter, the "Recipient of Payments" shall be a non-profit corporation, partnership, foundation or trust designated by the GCC(EI) to receive and hold the payments made by Canada pursuant to this chapter, or failing such designation, the Recipient of Payments shall be the GCC(EI).

22.2 **Negotiation Loan Repayment**

22.2.1 By deducting amounts listed in the Negotiation Loans Repayment Schedule set out in Schedule 22-3 of this chapter, Canada extinguishes any and all obligations the GCC(EI) might have had with respect to such loans.

22.2.2 Notwithstanding subsection 22.2.1, the GCC(EI) may request to accelerate the repayment of the outstanding negotiation loan amounts without bonus or penalty, at its option, and the new negotiation loan repayment Schedule shall be re-calculated such that the present value of the new Schedule 22-3, including accelerated payments, remains the same using an interest rate of

two decimal seven nine five percent (2.795%)[1], Canada will then recalculate Schedule 22-1 in accordance with subsection 22.1.1.

22.2.3 Except as provided in section 22.1, terms and conditions of the negotiation loans shall remain unaffected.

[1] The same 9-year amortization consolidated revenue fund lending rate utilized in the calculation of the provisional Schedule of payments, less 0.125 percent.

SCHEDULE 22-1

PROVISIONAL CAPITAL TRANSFER PAYMENT SCHEDULE

Date	Payments[2]
On the Effective Date of this Agreement	$6,446,472
On the first anniversary of the Effective Date of this Agreement	$6,446,472
On the second anniversary of the Effective Date of this Agreement	$6,446,472
On the third anniversary of the Effective Date of this Agreement	$6,446,472
On the fourth anniversary of the Effective Date of this Agreement	$6,446,472
On the fifth anniversary of the Effective Date of this Agreement	$6,446,472
On the sixth anniversary of the Effective Date of this Agreement	$6,446,472
On the seventh anniversary of the Effective Date of this Agreement	$6,446,472
On the eighth anniversary of the Effective Date of this Agreement	$6,446,472
On the ninth anniversary of the Effective Date of this Agreement	$6,446,472

Notes to Finalize Schedule 22-1

1. Payments will be made to the Recipient of Payments in accordance with a final Schedule of payments, which shall be incorporated into this Agreement immediately prior to the Effective Date of this Agreement calculated in accordance with subsection 22.1.1.

[2] Payments Schedule subject to verification by Cree party

SCHEDULE 22-2

PROVISIONAL CAPITAL TRANSFER SCHEDULE

Date	Amount[3]
On the Effective Date of this Agreement	$6,754,796
On the first anniversary of the Effective Date of this Agreement	$6,754,796
On the second anniversary of the Effective Date of this Agreement	$6,754,796
On the third anniversary of the Effective Date of this Agreement	$6,754,796
On the fourth anniversary of the Effective Date of this Agreement	$6,754,796
On the fifth anniversary of the Effective Date of this Agreement	$6,754,796
On the sixth anniversary of the Effective Date of this Agreement	$6,754,796
On the seventh anniversary of the Effective Date of this Agreement	$6,754,796
On the eighth anniversary of the Effective Date of this Agreement	$6,754,796
On the ninth anniversary of the Effective Date of this Agreement	$6,754,796

Notes to Finalize Schedule 22-2

1. This note will not form part of this Agreement. The purpose of this note is to enable the Parties to calculate the amounts to be shown in the provisional capital transfer Schedule and the amounts for the final schedule.

2. A provisional capital transfer Schedule will be negotiated prior to the signing of this Agreement such that:

[3] Payment Schedule subject to verification by Cree party

a) the provisional Schedule will provide for a first amount on the Effective Date of this Agreement and subsequent amounts on each anniversary date;

b) the present value of the amounts listed in the provisional Schedule will equal $50 million multiplied by the value of FDDIPI for the 1st quarter of 2010 and by dividing the resulting product by the value of FDDIPI for the 3rd quarter of 2000; and

c) the present value referred to in b) will be calculated using as a discount rate of 2.795%, which is the most recently released 9-year amortized consolidated revenue fund lending rate that the Minister of Finance for Canada has approved prior to the calculation of the provisional schedule, less 0.125 percent.

3. A final Schedule will be calculated prior to the Effective Date of this Agreement by multiplying each amount in the provisional Schedule by the value of the FDDIPI for the latest quarter available prior to that date for which FDDIPI has been published by Statistics Canada, and by dividing the resulting product by the same quarter of FDDIPI used to calculate the provisional schedule as in 2 b) above.

SCHEDULE 22-3

PROVISIONAL NEGOTIATION LOANS REPAYMENT SCHEDULE

Date	Repayments[4]
On the Effective Date of this Agreement	$308,324
On the first anniversary of the Effective Date of this Agreement	$308,324
On the second anniversary of the Effective Date of this Agreement	$308,324
On the third anniversary of the Effective Date of this Agreement	$308,324
On the fourth anniversary of the Effective Date of this Agreement	$308,324
On the fifth anniversary of the Effective Date of this Agreement	$308,324
On the sixth anniversary of the Effective Date of this Agreement	$308,324
On the seventh anniversary of the Effective Date of this Agreement	$308,324
On the eighth anniversary of the Effective Date of this Agreement	$308,324
On the ninth anniversary of the Effective Date of this Agreement	$308,324

Notes to Finalize Schedule 22-3

1. This note will not form part of this Agreement. The purpose of this note is to enable the Parties to calculate the amounts to be shown in the provisional capital transfer Schedule and the amounts for the final Schedule of payments.

2. Prior to the signing of this Agreement, the outstanding loans of the GCC(EI) shall be determined up to the time of signing this Agreement and serve to establish a provisional Schedule of repayments loans in accordance with the following provisions.

[4] Payment Schedule subject to verification Cree party

3. A provisional negotiation loan repayment Schedule will be negotiated prior to the signing of this Agreement such that:

   a) the provisional Schedule of repayments will provide for a first payment on the Effective Date of this Agreement and subsequent payments on any or all of the anniversary dates;

   b) the present value of the amounts listed in the provisional Schedule will equal $2,732,082, which is the outstanding amount of negotiation loans (principal plus accrued interest) as at the date of signature of this Agreement; and

   c) the present value referred to in b) will be calculated using as a discount rate of 2.795%, which is the most recently released 9-year amortized consolidated revenue fund lending rate that the Minister of Finance for Canada has approved prior to the calculation of the provisional Schedule of payments, less 0.125 percent.

4. A final Schedule of loan repayment amounts will be calculated prior to the Effective Date of this Agreement such that:

   a) the present value of the amounts listed in the final Schedule will equal the total outstanding amount of negotiation loans (principal plus accrued interest) as at the Effective Date of this Agreement; and

   b) the present value referred to in a) will be calculated using as a discount rate of 2.795%, which is the same 9-year amortized consolidated revenue fund lending rate utilized in the calculation of the provisional schedule, less 0.125 percent.

5. The final loan repayment Schedule will be incorporated into this Agreement immediately prior to the Effective Date of this Agreement.

CHAPTER 23

GOVERNMENT RESOURCE ROYALTY SHARING

23.1 The GDO has the right, in each and every calendar year, to be paid amounts equal to:

a) fifty percent (50%) of the first two million dollars ($2,000,000) received by Government in the calendar year from Resource Royalty; and

b) five percent (5%) of any additional Resource Royalty received by Government in that year.

23.2 Government shall pay the GDO the amount due to it pursuant to section 23.1 as follows:

a) The government of Canada shall pay fifty percent (50%) on the first two million dollars ($2,000,000) of Resource Royalty received by it in each and every calendar year; or

b) In the event that the government of Canada receives less than two million dollars ($2,000,000) of Resource Royalty in a calendar year, the government of Nunavut shall pay fifty percent (50%) on that portion of the Resource Royalty received by it in that same calendar year that when added to the Resource Royalty received by the government of Canada amounts to no more than two million dollars ($2,000,000); and

c) The governments of Canada and Nunavut shall each pay five percent (5%) on any Resource Royalties received by each of them in addition to the first two million dollars ($2,000,000) received by Government in each and every calendar year.

23.3 The amounts payable by Government pursuant to section 23.1 shall be remitted quarterly by Government to the GDO on an as-received basis.

23.4 Government shall annually provide the GDO with a statement indicating the basis on which any amounts payable under this chapter were calculated for the preceding calendar year.

23.5 On the request of the GDO, Government shall request the Auditor-General to verify the accuracy of the information in the annual statements. The GDO shall not assume any costs for such verification.

23.6 Government shall Consult with the GDO on any proposal to alter by Legislation the Resource Royalty payable to Government. Where Government consults outside of Government on any proposed changes to the fiscal regime which will change the resource royalty regime, it shall also Consult with the GDO.

23.7 This chapter applies to the EMR.

CHAPTER 24
TAXATION

24.1 Definition

24.1.1 In this chapter:

« Capital des Cris »

"***Cree Capital***" means all Land, cash, and other assets transferred or paid to a GDO under this Agreement or recognized as owned by a GDO under this Agreement.

24.2 Transfer of Cree Capital

24.2.1 A transfer or payment under this Agreement of Cree Capital and recognition of ownership of Cree Capital under this Agreement is not taxable.

24.2.2 For federal and territorial income tax purposes, Cree Capital is deemed to have been acquired by a GDO at a cost equal to its fair market value on the latest of:

a) the Effective Date of this Agreement; and

b) the date of transfer of ownership or the date of recognition of ownership, as the case may be.

24.3 Cree Lands

24.3.1 A GDO is not subject to capital taxation, including real property taxes and taxes on capital or wealth, with respect to the estate or interest of a GDO in Cree Lands on which there are no improvements or on which there is a designated improvement.

24.3.2 In subsection 24.3.1, "designated improvement" means:

a) a residence of a Cree or a Traditional Camp;

b) an improvement, all or substantially all of which is used for a public purpose or a purpose ancillary or incidental to the public purpose, including:

(i) a public governance or administration building, public meeting building, public hall, public school or other public educational institution, teacherage, public library, public health facility, public care facility, public seniors home, public museum, place of public worship, manse, fire hall, police facility, court, correction facility, public recreation facility, public park or an improvement used for Cree cultural or spiritual purposes;

(ii) works of public convenience constructed or operated for the benefit of a Cree, occupiers of Cree Lands or individuals visiting or in transit through Cree Lands, including public utility works, public works used to treat or deliver water or as part of a public sewer system, public roads, public bridges, public drainage ditches, traffic signals, street lights, public sidewalks, and public parking lots; or

(iii) similar improvements;

c) an improvement that is used primarily for the management, protection or enhancement of a natural Resource, including a forest resource or a fishery or Wildlife resource, other than an improvement that is used primarily in Harvesting or processing a natural Resource for profit; and

d) forest resources and forest roads.

24.3.3 In paragraph 24.3.2 b), "public purpose" does not include the provision of property or services primarily for the purpose of profit.

24.3.4 For the purposes of subsections 24.3.1 and 24.3.2:

a) for greater certainty, Cree Lands include a designated improvement on those Lands, unless such designated improvement is located on Cree Lands subject to a grant from a GDO pursuant to subsection 5.4.2; and

b) an improvement is deemed to be on the Land that is necessarily ancillary to the use of the improvement.

24.3.5 For greater certainty, the exemption from taxation in subsection 24.3.1 does not apply to a taxpayer other than a GDO

nor does it apply with respect to a disposition of Cree Lands, or interests in those Lands, by a GDO.

24.3.6 For federal and territorial income tax purposes, proceeds of disposition received by a GDO on expropriation of Cree Lands in accordance with Chapter 7 will not be taxable.

CHAPTER 25

IMPLEMENTATION ARRANGEMENTS AND FUNDING

25.1 Definitions

25.1.1 In this chapter:

« Plan de mise en œuvre » "***Implementation Plan***" means the plan prepared pursuant to this chapter;

25.2 Principles

25.2.1 The following principles shall guide the implementation of this Agreement and shall be reflected in the Implementation Plan:

a) there shall be an ongoing process for the GCC(EI) and Government to plan for and monitor the implementation of this Agreement which shall mirror the spirit and intent of this Agreement and its various terms and conditions;

b) timely and effective implementation of this Agreement with active Cree participation is essential for the Cree to benefit from this Agreement;

c) to promote timely and effective implementation of this Agreement, the GCC(EI) and Government shall:

(i) identify, for multi-year planning periods, the implementation activities, responsibilities and the level of Government implementation funding which will be provided during any planning period; and

(ii) allow flexibility to reschedule through the establishment of the Implementation Committee.

d) reflecting the level of independence and the authorities of the institutions identified in this Agreement, the funding arrangements shall:

(i) provide those institutions with sufficient resources to plan for and carry out the duties and responsibilities assigned to them in this Agreement in a professional manner with appropriate public involvement;

(ii) provide those institutions with a degree of flexibility to allocate, re-allocate and manage funds within their budgets no less than that generally accorded to comparable agencies of Government;

(iii) require those institutions to follow normally accepted management and accounting practices; and

e) ensure the accountability of those institutions for expenditure of their resources in fulfilling their obligations under this Agreement.

25.3 **Implementation Plan**

25.3.1 The GCC(EI) and Government ("the parties to the Implementation Plan") shall prepare a detailed Implementation Plan prior to initialling this Agreement that shall be appended to but not form part of this Agreement. The plan is not intended to be a land claims agreement within the meaning of section 35 of the *Constitution Act, 1982*.

25.3.2 For greater certainty, in the event of conflict or inconsistency between this Agreement and the Implementation Plan, this Agreement shall prevail.

25.3.3 The Implementation Plan shall be a legally binding contract except as otherwise agreed to by the parties to the Implementation Plan. A provision of the Implementation Plan providing for the payment of funds as a result of an obligation created in this Agreement shall be included in such contract, provided the parties to the Implementation Plan have agreed that payment of such funds constitutes the fulfillment of that obligation. Where the parties to the Implementation Plan fail to so agree, the treaty obligation shall prevail.

25.3.4 The Implementation Plan shall:

a) identify the ongoing and time-limited obligations, specific activities, and projects required to implement this Agreement;

b) identify how and by whom the obligations, activities and projects will be carried out and identify the associated time-frames and how these will be discharged;

c) identify the funding levels and specific funding arrangements for implementing this Agreement for an initial ten-year planning period following the Effective Date of this Agreement;

d) identify, at times deemed appropriate by the parties to the Implementation Plan, the implementation activities and funding levels for implementing this Agreement for successive multi-year planning periods subsequent to the initial ten-year planning period;

e) identify a communication and information strategy to inform Crees and interested third parties of the content and implementation of this Agreement;

f) provide for a process for monitoring the implementation of this Agreement through the establishment of an Implementation Committee to oversee, monitor and report on the implementation of this Agreement;

g) provide for a process for the review and amendment of the Implementation Plan; and

h) address other matters as agreed to by the parties to the Implementation Plan.

25.3.5 Negotiations between the Parties concerning the Implementation Plan, and the amounts of funding that shall be provided under the Implementation Plan, for the initial planning period shall commence at a time agreed to by the Parties and shall be concluded prior to the initialling of this Agreement.

25.3.6 For subsequent planning periods beyond the initial (10) ten-year planning period, negotiations between the Parties concerning the renewal of the Implementation Plan and the determination of the amounts of funding that shall be provided under the renewed Implementation Plan shall commence at least one (1) year prior to the expiry of the initial (10) ten-year planning period or any subsequent planning periods, as the case may be.

25.4 The Implementation Committee

25.4.1 As soon as practicable, but no later than three (3) months after the Effective Date of this Agreement, an Implementation Committee shall be established.

25.4.2 The Implementation Committee shall be composed of four (4) senior officials: one (1) representing the government of Canada, one (1) representing the government of Nunavut and two (2) representing the GCC(EI).

25.4.3 The Implementation Committee shall:

a) oversee and provide direction to guide the implementation of this Agreement;

b) monitor the Implementation Plan;

c) when it deems necessary, revise the activity sheets, reallocate resources and amend the Implementation Plan;

d) attempt to resolve implementation disputes arising among the parties to the Implementation Plan. Unresolved implementation disputes shall be resolved pursuant to Chapter 31;

e) every two (2) years provide to the Minister of Indian Affairs and Northern Development, the Leader of the government of Nunavut and the GCC(EI) a report on the implementation of this Agreement, which shall be made public; and

f) make recommendations for the implementation of this Agreement, including the role of the Implementation Committee, to the parties to the Implementation Plan for future planning periods following the initial (10) ten-year period.

25.4.4 The report of the Implementation Committee referred to in subsection 25.4.3 shall be a cost of the government of Canada.

25.4.5 All decisions of the Implementation Committee shall be by unanimous agreement of the members.

25.5 Cree Implementation Funding

25.5.1 Canada shall make a one time implementation funding payment to the GCC(EI) on the Effective Date of this Agreement of five million dollars ($5,000,000) multiplied by the value of FDDIPI for the latest quarter available prior to that date for which FDDIPI has

been published by Statistics Canada, and by dividing the resulting product by the value of FDDIPI for the 3rd quarter of 2002.

25.5.2 The payment made pursuant to subsection 25.5.1 is not intended by the Parties to fulfill or discharge the ongoing funding responsibilities of the government of Canada for the implementation of this Agreement.

25.5.3 Unless otherwise specified in this Agreement, Canada shall not be responsible for the costs of the GCC(EI) to implement this Agreement.

25.5.4 The GCC(EI) shall use the funds referred to in subsection 25.5.1 to implement this Agreement and to carry out the objects of the GCC(EI) as set out in its constitutive documents.

PART VI ARCHAEOLOGY AND ETHNOGRAPHIC RESOURCES

CHAPTER 26
ARCHAEOLOGY

26.1 Definitions and Interpretation

26.1.1 In this chapter:

« Exploration archéologique »

"*Archaeological Investigation*" means any archaeological research, survey, excavation, reconstruction, work or other activity within the EMR;

« Spécimen archéologique »

"*Archaeological Specimen*" means an object, or specimen found in an Archaeological Site of archaeological, ethnological or historical importance, interest or significance and includes explorers' documents, Cree Human Remains or Associated Burial Objects;

« Aires administrées par Parcs Canada »

"***Areas Administered by Parks Canada***" means National Parks, National Park Reserves, National Marine Conservation Areas, National Marine Conservation Area Reserves, and National Historic Sites of Canada owned and administered by Parks Canada Agency under the *Historic Sites and Monuments Act*, R.S.C. 1985, c. H-4, the *Canada National Parks Act*, and the *Canada National Marine Conservation Areas Act*; as appropriate;

« Restes humaines de Cris et objets de sépulture des Cris »

"***Cree Human Remains or Associated Burial Objects***" means human remains of individuals of Cree ancestry or any objects associated with the burial of those individuals;

« Organisme désigné »

"Designated Agency" means the Government agencies, and departments, or their successors, described in Schedule 26-1;

« Aliénation à long terme »

"***Long-term Alienation***" means:

a) any sale or gift, or

b) loan or other transfer of possession or rights to an Archaeological Specimen,

(i) for an indefinite duration, or

(ii) for a period, including any extension by way of renewal, for three (3) years or longer;

« Bien privé » "***Private Property***" means moveable property to which a Person can demonstrate ownership in law other than by discovery or through title to or interest in Land; and

« Documents publics » "***Public Records***" means records held by any department or agency or public office of any level of government including records which were formerly held by any such department, agency or public office.

26.2 General Principles

26.2.1 The archaeological record of the Crees in the EMR is a record of Cree use and occupancy of Lands and Resources through time. The evidence associated with Cree use and occupancy represents a cultural, historical and ethnographic heritage of Cree society and, as such, Government recognizes that the Crees have a special relationship with such evidence that shall be expressed in terms of special rights and responsibilities.

26.2.2 The archaeological record of the EMR is of cultural, spiritual, religious and educational importance to the Crees. Accordingly, the identification, protection and conservation of Archaeological Sites and Archaeological Specimens and the interpretation of the archaeological record is of primary importance to the Crees and their involvement is both desirable and necessary.

26.2.3 Government responsibilities for the management and conservation of Archaeological Sites and Archaeological Specimens shall be balanced with the Crees' responsibilities for same.

26.2.4 A GDO shall be invited to participate in any development of Government policy and Legislation on archaeology in the EMR.

26.3 Permits

26.3.1 Upon receipt of any application for a permit authorizing an Archaeological Investigation in the EMR, the Designated Agency shall, except in cases of emergency, forward a copy of the application forthwith to the GDO.

26.3.2 Upon receipt of the copy, the GDO shall have ninety (90) days to object to the application in writing.

26.3.3 If the Designated Agency is in receipt of such written objections within the specified number of calendar days referenced in subsection 26.3.2, it shall:

a) withhold the issuance of any permit;

b) investigate the objections and prepare a report thereon; and

c) provide the GDO with a copy of the report referred to in paragraph b) above.

26.3.4 Where the objections referred to in subsection 26.3.3 are reasonably founded on:

a) inadequate efforts to secure Cree participation and benefits or inadequate performance of commitments to provide such participation and benefits under permits issued at an earlier date, or

b) disturbance of a site of Cree religious or spiritual significance as such significance is defined by the GDO in Consultation with the Designated Agency,

the Designated Agency shall reject the application for the permit.

26.3.5 The Designated Agency shall upon reasonable request by the GDO, attach as a condition to the grant of a permit, a requirement that upon completion of each season's field work, the permit holder shall, to the extent practicable:

a) attend at a location identified by the GDO, in the community closest to the site, to explain and discuss the work carried out; and

b) provide an opportunity for residents of the community to examine any specimen removed from the site.

26.3.6 Notwithstanding subsection 26.3.4, where the application before the Designated Agency is associated with a proposed land use requiring a land use permit, the Designated Agency may, instead of rejecting the application, issue a permit with terms and conditions that adequately deal with the reasonably founded objections.

26.3.7 Every permit holder shall submit a report as required by the Designated Agency with a copy to the GDO. Upon reasonable request, the Designated Agency shall provide the GDO with a summary of the report in the Cree language.

26.3.8 The Designated Agency shall make available Cree translations of its publications that are aimed at informing the Canadian public about archaeology in the EMR.

26.3.9 Except where a permit specifically requires a permit holder to leave Archaeological Specimens *in situ* for purposes of scientific, historic or cultural reasons, all Archaeological Specimens collected by a permit holder shall be submitted to the Designated Agency or the GDO at a place and time specified in the permit.

26.3.10 Where an application is made for a land use permit and there are reasonable grounds to believe there could be important Archaeological Sites on Lands affected, no land use permit shall be issued without the written consent of the Designated Agency. Such consent shall not be unreasonably withheld.

26.3.11 Each land use permit referred to in subsection 26.3.10 shall specify the plans and methods of Archaeological Site protection and restoration to be followed by the permit holder, and any other conditions the Designated Agency may deem fit.

26.4 Title in Archaeological Specimens

26.4.1 In this section, "Archaeological Specimens" does not include human remains.

26.4.2 Government and the GDO shall jointly own all Archaeological Specimens found within the EMR following the Effective Date of this Agreement and that are not:

a) Public Records;

b) the Private Property of any Person; or

c) within Areas Administered by Parks Canada Agency.

26.4.3 Archaeological Specimens found in the EMR in Areas Administered by Parks Canada Agency shall be managed in accordance with the provisions of this Agreement.

26.4.4 Any disturbance or disposition of Archaeological Specimens shall be managed in accordance with this chapter.

26.4.5 The Designated Agency and the GDO must jointly consent, in writing, prior to any Long-term Alienation of any Archaeological Specimens found in the EMR.

26.4.6 Where the Designated Agency and the GDO cannot reach an agreement on a proposal for a Long-term Alienation, as outlined in subsection 26.4.5, the matter shall be referred for resolution by Arbitration under Part B of Chapter 31 by the Designated Agency or the GDO. In arriving at a decision, the Arbitrators shall take into account the overall intent of this Agreement, the provisions of this chapter, and any other relevant consideration.

26.4.7 Subject to subsection 26.4.5, the GDO shall determine the disposition of all Archaeological Specimens found on Cree Lands.

26.4.8 Subject to subsection 26.4.5, the Designated Agency shall determine the disposition of all Archaeological Specimens found in the EMR other than on Cree Lands subject to the rights of the GDO to acquire possession as set out in this chapter.

26.4.9 Public Records wherever they are found shall be owned and managed by the government by which they were created or held.

26.5 Use of Archaeological Specimens

26.5.1 The GDO may request possession of any Archaeological Specimen found within the EMR or from any Government agency, including the Canadian Museum of Civilization. Such requests shall not be refused by the agency unless:

a) the GDO is unable to maintain the Archaeological Specimen without risk of damage or destruction, including, where appropriate, provision for climate control and security;

b) the GDO is unable to provide access to the Archaeological Specimen commensurate with scientific or public interests;

c) the agency is unable to give up possession because of some term or condition of its original acquisition from a non-Government source;

d) the Canadian Museum of Civilization, Library and Archives Canada, Parks Canada Agency or a territorial archaeological agency currently requires the Archaeological Specimen,

(i) for its own active display or research, or

(ii) on account of the unique characteristics of the Archaeological Specimen;

e) the condition of the Archaeological Specimen prohibits its movement; or

f) the Archaeological Specimen has previously been made available to, and is in the possession of, a Person other than a Government agency.

26.5.2 Where the agency referred to in subsection 26.5.1 complies with a request by the GDO, the Designated Agency may attach any terms and conditions, consistent with professional and institutional practice, including terms or conditions dealing with duration or termination of possession.

26.5.3 If the GDO requests a loan under subsection 26.5.1 but the Archaeological Specimen is subject to an existing, legally binding loan commitment, the GDO shall have priority over others to obtain possession of the Archaeological Specimen once that commitment has been fulfilled.

26.5.4 A Designated Agency may request possession of any Archaeological Specimen in the possession of the GDO and the GDO may grant possession on a basis to be negotiated between the Designated Agency and the GDO.

26.6 Cree Human Remains or Associated Burial Objects

26.6.1 At the request of the GDO, Government shall use reasonable efforts to facilitate the GDO's access to Cree Human Remains or

Associated Burial Objects that are held in public and private collections other than by Government.

26.7 **Protection of and Rules of Access to Cree Human Remains or Associated Burial Objects and Burial Sites**

Notwithstanding any other provisions of this chapter:

26.7.1 Immediately upon discovering a burial site in the EMR a Person shall notify the GDO and Government.

26.7.2 Subject to subsection 26.7.4, if determined by the GDO and Government that the burial site on Cree Lands contains Cree Human Remains or Associated Burial Objects the burial site shall not be surveyed or disturbed without the written consent of the GDO and subject to conditions established by the GDO.

26.7.3 Any Person having received permission under subsection 26.7.2 to survey or disturb a Cree burial site shall take appropriate measures to respect the dignity of the site and any Cree Human Remains or Associated Burial Objects therein.

26.7.4 A Cree burial site, on Cree Lands may be disturbed by police, where authorized by Legislation, without the consent of the GDO, if such disturbance is required in relation to a police investigation.

26.7.5 With respect to subsection 26.3.10, if there are reasonable grounds to believe that the Archaeological Site on Cree Lands contains Cree Human Remains or Associated Burial Objects, the Designated Agency shall first Consult and receive the consent of the GDO pursuant to subsection 26.7.2 prior to a land use permit being issued.

26.7.6 If the GDO and Government determine that Cree Human Remains or Associated Burial Objects must be removed from a Cree burial site, the GDO shall determine the reburial or other disposition of the Cree Human Remains or Associated Burial Objects. If the GDO wishes to bury or otherwise dispose of the Cree Human Remains or Associated Burial Objects in a National Park, National Park Reserve, National Marine Conservation Area or National Marine Conservation Area Reserve, Canada and the GDO must jointly agree.

26.8 Employment and Contracting

26.8.1 Where any agency of Government intends to contract for carrying out of archaeological work in the EMR, the agency shall:

a) give preferential treatment to qualified Cree Enterprises where the agency proposes to tender such contract; and

b) ensure that all contractors give preferential treatment to qualified Cree and Cree Enterprises.

26.8.2 Any archaeological programs in the EMR that are administered by Government shall also conform with Chapter 21.

SCHEDULE 26-1
DESIGNATED AGENCIES

PART I : GOVERNMENT OF CANADA

Canadian Museum of Civilization

Library and Archives of Canada

Department of Indian Affairs and Northern Development

Department of Canadian Heritage

Parks Canada Agency

Social Sciences and Humanities Research Council of Canada

Department of Fisheries and Oceans

PART 2 : GOVERNMENT OF NUNAVUT

Department of Culture, Language, Elders and Youth

CHAPTER 27

ETHNOGRAPHIC RESOURCES, ARCHIVAL RECORDS AND PLACE NAMES

27.1 Definitions and Interpretation

27.1.1 In this chapter:

« Documents d'archives »

"*Archival Records*" means records of historical value that are created or held or both by Government. It includes any correspondence, memorandum, book, plan, map, drawing, diagram, pictorial or graphic work, photograph, film, microform, sound recording, videotape, machine-readable record, and any other documentary material, regardless of physical form or characteristics, and any copy thereof;

« Organisme ethnographique »

"*Ethnographic Agency*" means an organization within Government mandated to conduct ethnographic research or preserve Ethnographic Resources or Archival Records;

"Ressource ethnographique"

"*Ethnographic Resource*" means any object that was made, used or modified by people, including, for greater certainty, any photograph, recording or cultural account made, collected or documented for the interpretation and study of human culture.

27.1.2 Nothing in this chapter shall be interpreted so as to conflict with Chapter 26.

27.2 Use of Ethnographic Resources

27.2.1 Where the GDO requests the loan of any Ethnographic Resource originating in or relating to Eeyou Istchee and in the possession of any Ethnographic Agency, including the Canadian Museum of Civilization and Parks Canada Agency, such request shall not be refused unless:

a) the GDO is unable to maintain the Ethnographic Resource without risk of damage or destruction, including, where appropriate, provision for climate control and security;

b) the GDO is unable to provide access to the Ethnographic Resource commensurate with scientific or public interest;

c) the agency is unable to lend the Ethnographic Resource because of a term or condition of its original acquisition from a non-government source; this restriction will not apply where the term or condition is unreasonable in light of health or public safety considerations;

d) the Canadian Museum of Civilization, Parks Canada Agency, or an Ethnographic Agency requires the Ethnographic Resource:

(i) for its own active display or research; or

(ii) on account of the unique characteristics of the Ethnographic Resource;

e) the condition of the Ethnographic Resource prohibits its movement; or

f) the Ethnographic Resource has previously been lent to, and is in the possession of, a Person other than Government.

27.2.2 Where the agency referred to in subsection 27.2.1 complies with a request by the GDO, the agency may attach any terms and conditions consistent with professional and institutional practice, including terms or conditions dealing with duration or termination of the loan.

27.2.3 If the GDO requests a loan under subsection 27.2.1 but the Ethnographic Resource is subject to an existing, legally binding loan commitment, the GDO shall have priority over others to obtain possession of the Ethnographic Resource once that commitment has been fulfilled.

27.2.4 Where the Ethnographic Agency is a party to an agreement that governs the use and disposition of Ethnographic Resources deposited with the agency, that agreement will be respected.

27.3 Use of Archival Records

27.3.1 Where the GDO requests the loan of original Archival Records relating to the Cree for display or exhibit in Eeyou Istchee, or copies of such Archival Records for research or study purposes, from the Library and Archives Canada or any other Ethnographic Agency, such request shall be treated on at least as favourable a basis as similar requests from any other institutions. Unless otherwise agreed, such requests shall comply with Laws of General Application, and generally applicable policies and procedures.

27.4 Place Names

27.4.1 The Crees have traditionally referred to various locations, geographic features and landmarks in the EMR by their traditional Cree place names. The official names of such places shall be reviewed by the GDO and may be changed to traditional Cree place names in accordance with the government of Nunavut's Geographic Names Policy dated November 2004, as revised pursuant to subsection 27.4.3.

27.4.2 These traditional Cree place names shall be taken into account by Government in designating geographic place names in the EMR.

27.4.3 The government of Nunavut's Geographic Names Policy dated November 2004 shall be revised to take into account subsections 27.4.1 and 27.4.2.

PART VII FINAL PROVISIONS

CHAPTER 28

GRAND COUNCIL OF THE CREES (EEYOU ISTCHEE)

28.1 The Crees shall maintain the GCC(EI) or a successor Cree Nation organization and ensure it operates with accountability to, and democratic control by, Crees under terms determined by the Crees.

28.2 The GCC(EI) may on such terms and conditions as it deems appropriate, designate a GDO as responsible for any power, function, duty or authority of a GDO under this Agreement where in the opinion of the GCC(EI) that GDO has the capability to undertake that power, function, duty or authority.

28.3 The GCC(EI) may revoke a designation under section 28.2 at any time.

28.4 The GCC(EI) shall provide written notice to Government as soon as reasonably possible of any designation under section 28.2 and any revocation under section 28.3.

28.5 The GCC(EI) shall be responsible for a power, function, duty or authority of a GDO under this Agreement if a designation in respect of that power, function, duty or authority either has not been made under section 28.2 or has been revoked under section 28.3 and no other GDO has been designated.

28.6 The GCC(EI) shall establish and keep up to date at its head office a public record of all GDOs designated under section 28.2 which record shall specify the powers, functions, duties or authorities under this Agreement for which each one has been designated.

28.7 Every GDO designated under section 28.2 shall be constituted and operate with accountability to, and democratic control by, the Crees under terms determined by the Crees.

28.8 In addition to any power, function, duty or authority for which a GDO is designated under section 28.2, the GDO may exercise any other powers, functions, duties or authorities granted to it by some other means.

28.9 Government is not liable to the Crees for any damage or loss suffered by the Crees as a consequence of any act or omission of or by the GCC(EI) or a GDO in exercising or failing to exercise a power, function, duty or authority acquired by the GCC(EI) or a GDO under this Agreement.

28.10 Without limiting the rights of a Cree in relation to the GCC(EI) or a GDO, every power, function, duty or authority exercised by the GCC(EI) or a GDO under this Agreement shall be deemed to be exercised on behalf of and for the benefit of the Crees.

28.11 The Crees shall not be liable as principal of the GCC(EI) or a GDO in respect of any power, function, duty or authority exercised by it under this Agreement solely because that power, function, duty or authority is deemed to be exercised on behalf of and for the benefit of the Crees.

CHAPTER 29

OTHER ABORIGINAL PEOPLES

29.1 Nothing in this Agreement shall limit the negotiation of agreements between the Crees and other aboriginal peoples in regard to the EMR, except that the provisions of such agreements shall not be binding on Government without the consent of Government.

29.2 No provision of this Agreement other than Chapter 30 shall be construed to:

a) recognize or provide any aboriginal or treaty rights for any aboriginal people other than the Crees of Eeyou Istchee;

b) affect

(i) any treaty right of any aboriginal people other than the Crees of Eeyou Istchee, where the right existed before the provision of this Agreement was in effect, or;

(ii) any aboriginal rights of any aboriginal people other than the Crees of Eeyou Istchee.

29.3 If a court finally determines that section 29.2 has the effect of rendering a provision of this Agreement wholly or partially inoperative or ineffective because that provision of this Agreement would otherwise affect any right referred to in paragraph 29.2 b),

a) upon notice by a Party, the Parties shall enter into negotiations for the amendment of this Agreement in order to resolve any problems caused by that provision being inoperable or ineffective and to provide new or replacement rights that are equivalent to or compensate for any rights of the Crees of Eeyou Istchee, the GCC(EI), any GDO or any body established pursuant to this Agreement would have enjoyed under the provision; and

b) if the Parties fail to reach an agreement on an amendment under paragraph a) within ninety (90) days

of the notice, a Party may refer the matter for mediation and thereafter, if need be, to Arbitration pursuant to Part B of Chapter 31.

CHAPTER 30

RECIPROCAL ARRANGEMENTS

BETWEEN THE CREES OF EEYOU ISTCHEE AND THE NUNAVIK INUIT

30.1 A *Consolidated Agreement Relating to the Cree/Inuit Offshore Overlapping Interests Area Between the Crees of Eeyou Istchee and the Nunavik Inuit* ("Cree/Inuit Offshore Overlap Agreement"), is appended as Schedule 30-1 to this chapter.

30.2 Government shall not be bound by the Preamble or Part 8 of the Cree/Inuit Offshore Overlap Agreement nor shall the incorporation of the Cree/Inuit Offshore Overlap Agreement in this Agreement be construed as recognition by Government of aboriginal rights in the overlap area.

30.3 For greater certainty the definitions in Part 3 of the Cree/Inuit Offshore Overlap Agreement shall apply only to the Cree/Inuit Offshore Overlapping Interests Area.

30.4 Notwithstanding any other provision of this Agreement, but subject to sections 30.2 and 30.3, the provisions set out in the Cree/Inuit Offshore Overlap Agreement shall form part of this Agreement, and were given effect by Government upon the effective date of the Nunavik Inuit Land Claims Agreement , and shall prevail over the provisions of this Agreement to the extent of any inconsistency or conflict.

30.5 The jurisdiction of the EMRPC, of the EMRWB, and of the EMRIRB shall not be exercised in the Inuit Zone, the whole in accordance with section 7.3 of the Cree/Inuit Offshore Overlap Agreement.

30.6 In order to facilitate the efficiency and effectiveness of operation of the management regimes in the Joint Zone, the words "shall apply jointly and equally" in section 7.5 of the Cree/Inuit Offshore Overlap Agreement shall mean that those regimes set out in this Agreement and in the NILCA:

a) shall be given equal weight and authority in the Joint Zone;

b) the bodies created pursuant to the management regimes provided under either this Agreement or the NILCA shall sit together when making decisions or recommendations concerning the Joint Zone and render the same recommendations or decisions concerning the Joint Zone; and

c) where the time requirements regarding decisions or recommendations for the application in the Joint Zone of a management regime by the bodies provided for in the concerned regime differ between this Agreement and the NILCA, the longest time requirement period shall apply.

30.7 An arbitration decision made pursuant to section 8.6 of the Cree/Inuit Offshore Overlap Agreement only binds the parties to that arbitration.

30.8 While the parties to the Cree/Inuit Offshore Overlap Agreement may amend that agreement pursuant to its amendment provisions, no such amendment shall be effective to change Schedule 30-1 of this Agreement without the consent of Government.

30.9 The provisions of Chapter 30 of this Agreement may not be amended without the written agreement of the Nunavik Inuit as represented by Makivik Corporation.

30.10 The incorporation of the Cree/Inuit Offshore Overlap Agreement in this Agreement does not create any obligation on the Nunavik Inuit or on Government to conclude any further agreement.

SCHEDULE 30-1

A CONSOLIDATED AGREEMENT RELATING TO THE CREE / INUIT OFFSHORE OVERLAPPING INTERESTS AREA BETWEEN THE CREES OF QUÉBEC AND THE NUNAVIK INUIT

CONSOLIDATED AGREEMENT RELATING TO THE CREE/INUIT OFFSHORE OVERLAPPING INTERESTS AREA

BETWEEN

THE CREES OF EEYOU ISTCHEE

AND

THE NUNAVIK INUIT

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CONSOLIDATED AGREEMENT RELATING TO THE CREE/INUIT OFFSHORE OVERLAPPING INTERESTS AREA

BETWEEN, ON THE ONE HAND: The **CREES OF EEYOU ISTCHEE**, acting through the **GRAND COUNCIL OF THE CREES (EEYOU ISTCHEE)**

AND

ON, THE OTHER HAND: **NUNAVIK INUIT**, acting through **MAKIVIK CORPORATION**.

PREAMBLE

WHEREAS the Crees of Eeyou Istchee and the Nunavik Inuit have always occupied and used the Overlap Area and have developed traditions for sharing the Overlap Area;

WHEREAS, on November 11th, 1975, the Crees of Eeyou Istchee and the Nunavik Inuit entered into the James Bay and Northern Québec Agreement, which gave, granted, recognized and provided to the Crees of Eeyou Istchee and the Nunavik Inuit the rights, privileges and benefits set out therein;

WHEREAS the James Bay and Northern Québec Agreement did not affect, modify or otherwise impair, restrict or infringe upon the aboriginal and other rights, titles and interests of the Crees of Eeyou Istchee and of the Nunavik Inuit in areas situated outside the borders of the province of Québec, including the marine areas and islands adjacent to the said province in James Bay, Hudson's Bay, Hudson's strait and Ungava bay;

WHEREAS, in a letter of commitments dated November 15th, 1974, certain understandings reached between the Government of Canada and the Crees of Eeyou Istchee and the Nunavik Inuit were set out, including the undertaking of Canada to negotiate with the Crees of Eeyou Istchee and the Nunavik Inuit in regard to the said offshore areas;

WHEREAS such negotiations are ongoing with both the Crees of Eeyou Istchee and the Nunavik Inuit;

WHEREAS the Crees of Eeyou Istchee and the Nunavik Inuit have certain overlapping aboriginal and other rights, titles and interests in certain marine areas and islands adjacent to the province of Québec in James Bay and Hudson's Bay;

WHEREAS, on August 21st, 2002, the Grand Council of the Crees (Eeyou Istchee) and Makivik Corporation reached a "Cree/Inuit Agreement on Offshore Overlap" which was subsequently ratified pursuant to the terms of that agreement;

WHEREAS on October 25th, 2002 the Nunavik Inuit and the Government of Canada signed an "Agreement-in-Principle concerning the Nunavik Marine Region";

WHEREAS the parties hereto wish to set out in writing the terms and arrangements flowing from the "Cree/Inuit Agreement on offshore overlap" and to incorporate such terms and arrangements in the Nunavik Inuit Final Agreement and in the Crees of Eeyou Istchee Final Agreement;

WHEREAS the Crees of Eeyou Istchee and the Nunavik Inuit wish to reiterate the continued good relations, cooperation and solidarity which has characterized their relationship since the negotiations of the James Bay and Northern Québec Agreement.

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

PART I - GENERAL

1.1 The provisions of this Agreement shall all be incorporated in the Nunavik Inuit Final Agreement, and any modifications to the wording of this Agreement carried out for purposes of coherence with the Nunavik Inuit Final Agreement shall only be made with the consent of the GCC(EI), which consent shall not be arbitrarily or unreasonably withheld.

1.2 The provisions of this Agreement shall all be incorporated in the Crees of Eeyou Istchee Final Agreement, and any modifications to the wording of this Agreement carried out for purposes of coherence with the Crees of Eeyou Istchee Final Agreement shall only be made with the consent of Makivik Corporation, which consent shall not be arbitrarily or unreasonably withheld.

1.3 In the event of any inconsistency between the Nunavik Inuit Final Agreement or the Crees of Eeyou Istchee Final Agreement and the provisions herein, this Agreement shall prevail to the extent of such inconsistency or conflict.

1.4 For greater certainty, nothing on this Agreement, in the Nunavik Inuit Final Agreement, or in any legislation ratifying or implementing their terms, shall:

a) constitute a cession, release, surrender or other qualification or limitation of any aboriginal or treaty rights of the Crees of Eeyou Istchee, including those rights set out under the terms of the JBNQA;

b) be interpreted as to abrogate or derogate from or otherwise conflict or be inconsistent with any aboriginal or treaty rights of the Crees of Eeyou Istchee, including those rights set out under the terms of the JBNQA.

1.5 For greater certainty, nothing in this Agreement, in the Crees of Eeyou Istchee Final Agreement, or in any legislation ratifying or implementing their terms shall:

a) constitute a cession, release, surrender or other qualification or limitation of any aboriginal or treaty rights of the Nunavik Inuit, including those rights set out under the terms of the JBNQA;

b) be interpreted as to abrogate or derogate from or otherwise conflict or be inconsistent with any aboriginal or treaty rights of the Nunavik Inuit, including those rights set out under the terms of the JBNQA.

1.6 The reciprocal arrangements between the Nunavik Inuit and the Inuit of Nunavut set out in article 28 of the Nunavik Inuit AIP and in article 40 of the Nunavut Land Claims Agreement shall not affect the rights, titles and interests of the Crees of Eeyou Istchee in the Cree/Inuit Offshore Overlapping Interests Area as set out in this Agreement and the Crees of Eeyou Istchee Final agreement.

1.7 The Nunavik Marine Region which will be set out and described in the Nunavik Inuit Final Agreement shall comprise the Nunavik Marine Region as described in Schedule 3-1 of the Nunavik Inuit AIP save that the geographic coordinate of that description which reads as follows:

"- thence southeasterly in a straight line to a point at the intersection of 53°45'N latitude and 79°05'W longitude at the ordinary low water mark on the south shore of Québec, south of Chisasibi"

shall be changed in the Nunavik Inuit Final Agreement in order to reflect the following geographic coordinates:

"- thence southeasterly in a straight line to a point at the intersection of 53°45'31"N latitude and 79°06'55"W longitude, north of Aatsiguuyaanuminshtuk island;

- thence due east along the 53°45'31"N latitude to a point at the ordinary low water mark on the shore of Québec south of Chisasibi at the intersection of 53°45'31"N latitude and 79°04'56"W longitude;"

1.8 Unless otherwise stipulated in this Agreement, nothing in this Agreement affects or is intended to affect any rights of Nunavik Inuit under the Nunavik Inuit Final Agreement or of Crees of Eeyou Istchee, under the Crees of Eeyou Istchee Final Agreement in or related to the Overlap Area, including with respect to wildlife compensation, capital transfers, resource revenues sharing or resource royalty sharing.

PART II - OBJECTS

2.1 The principal objects of this Agreement are as follows:

a) to provide for the continuation of harvesting by the Crees of Eeyou Istchee and the Nunavik Inuit in the Cree/Inuit Offshore Overlapping Interests Area, regardless of land claims agreement boundaries;

b) to identify the Cree/Inuit Offshore Overlapping Interests Area and the three (3) zones comprised within this Overlap Area;

c) to identify a Joint Inuit/Cree Zone within this Overlap Area, and with respect to such Joint Zone to provide for:

i) the joint and equal ownership of lands and the joint and equal sharing of other interests, benefits and revenues by the Crees of Eeyou Istchee and the Nunavik Inuit;

ii) the sharing of wildlife between the Crees of Eeyou Istchee and the Nunavik Inuit in accordance with the harvesting interests of both groups;

iii) the joint and equal participation of the Crees of Eeyou Istchee and the Nunavik Inuit in the management of the lands, resources and wildlife, including joint and equal participation in regimes for wildlife management, planning, land and water management and development impact assessment in such zone;

d) to identify an Inuit Zone within this Overlap Area and with respect to such zone, to provide for:

i) the ownership of lands by the Nunavik Inuit and other interests, benefits and revenues of the Nunavik Inuit;

ii) the sharing of wildlife between the Crees of Eeyou Istchee and the Nunavik Inuit in accordance with the harvesting interests of both groups;

iii) the participation of the Crees of Eeyou Istchee in the management of wildlife, including participation in the regime for wildlife management to be provided for in the Nunavik Inuit Final Agreement;

e) to identify a Cree Zone within this Overlap Area and with respect to such zone, to provide for:

i) the ownership of lands by the Crees of Eeyou Istchee (save those islands described in schedule 6) and other interests, benefits and revenues of the Crees of Eeyou Istchee;

ii) the sharing of wildlife between the Crees of Eeyou Istchee and the Nunavik Inuit in accordance with the harvesting interests of both groups;

iii) the participation of the Nunavik Inuit in the management of wildlife, including participation in the regime for wildlife management provided for in the Crees of Eeyou Istchee Final Agreement;

f) to promote cooperation and good relations between the Crees of Eeyou Istchee and the Nunavik Inuit and with third parties.

PART III - DEFINITIONS AND INTERPRETATIONS

3.1 In this Agreement:

"*Basic Needs Level*" means:

a) for the Nunavik Inuit, the level of harvest in the Overlap Area for specific species, stocks or populations of wildlife determined on the basis of available information and reflecting consumption or use by Nunavik Inuit and marketing or trade by Nunavik Inuit for consumption or use in the Overlap Area or in northern Québec;

b) for the Crees of Eeyou Istchee, the level of harvest in the Overlap Area for specific species, stocks or populations of wildlife determined on the basis of available information and reflecting consumption or use by the Crees of Eeyou Istchee and marketing or trade by the Crees of Eeyou Istchee for consumption or use in the Overlap Area or in northern Québec.

"*Cree/Inuit Offshore Overlapping Interests Area*" or "*Overlap Area*" means those areas described in Schedule 1 hereto and depicted for information purposes only on the map appended as Schedule 5 hereto;

"*Crees of Eeyou Istchee*" means the "*Crees*" as defined in the JBNQA;

"*Crees of Eeyou Istchee Final Agreement*" means a Final Agreement between the Crees of Eeyou Istchee and Her Majesty the Queen in Right of Canada concerning the Eeyou Marine Region and which is to be negotiated, signed and ratified;

"*Cree Zone*" means those areas described in Schedule 3 hereto and depicted for information purposes only on the map appended as Schedule 5 hereto;

"*EMR*" means the "*Eeyou Marine Region*";

"*Eeyou Marine Region*" means the area to be described in the Crees of Eeyou Istchee Final Agreement and including the Overlap Area;

"*GCC(EI)*" means the "*Grand Council of the Crees (Eeyou Istchee)*;

"*GDO*" means the GCC(EI) or an organization designated by the GCC(EI);

"*Grand Council of the Crees (Eeyou Istchee)*" or "*GCC(EI)*" means the Corporation representing the Crees of Eeyou Istchee;

"*harvest*" means the reduction of wildlife into possession, and includes hunting, trapping, fishing, netting, egging, picking, collecting, gathering, spearing, killing, capturing or taking by any means;

"*Inuit of Nunavut*" means "Inuit" as defined in Section 1.1.1 of the Nunavut Land Claims Agreement;

"*Inuit Zone*" means those areas described in Schedule 4 hereto and depicted for information purposes only on the map appended as Schedule 5 hereto;

"*James Bay and Northern Québec Agreement*" or "*JBNQA*" means the Agreement approved, given effect and declared valid by the *James Bay and Northern Québec Native Claims Settlement Act* (S.C., 1976-77, chapter 32) and by the *Act approving the Agreement concerning James Bay and Northern Québec* (S.Q., 1976, chapter 46), and as amended from time to time by Complementary Agreements thereto;

"*JBNQA*" means the "*James Bay and Northern Québec Agreement*";

"*Joint Inuit/Cree Zone*" or "*Joint Zone*" means those areas described in Schedule 2 hereto and depicted for information purposes only on the map appended as Schedule 5 hereto;

"*Joint Zone*" means the "*Joint Inuit/Cree Zone*";

"*land*" includes land covered by water, and the minerals in or on land;

"*Makivik Corporation*" or "*Makivik*" means the Corporation representing Nunavik Inuit and created by virtue of *An Act respecting the Makivik Corporation*, S.Q., 1978, chapter 91, R.S.Q., chapter S-18.1;

"*Makivik*" means the "*Makivik Corporation*";

"*marine areas*" means Canada's internal waters or territorial sea, whether open or ice-covered, but does not include inland waters in Québec. For greater certainty, the reference to internal waters or territorial sea includes the seabed and subsoil below those internal waters or territorial sea;

"*marine resources*" means organic and inorganic resources, including land, water and ice, located in, on or under the Overlap Area, and includes wildlife inhabiting the Overlap Area on a permanent, temporary or seasonal basis.

"*MDO*" means Makivik Corporation or an organization designated by Makivik Corporation;

"*minerals*" means precious and base metals and other non-living, naturally occurring substances whether solid, liquid or gaseous, excluding water, but including coal, petroleum, gold and silver;

"*Nunavik Inuit*" means the "*Inuit*" as defined in the JBNQA;

"*Nunavik Inuit Final Agreement*" means the Nunavik Inuit Land Claims Agreement which is to be negotiated, signed and ratified pursuant to the Nunavik Inuit AIP;

"*Nunavik Inuit Marine Region Agreement-in-Principle*" or "*Nunavik Inuit AIP*" means the Agreement-in-Principle between Nunavik Inuit and Her Majesty the Queen in Right of Canada signed on October 25th, 2002;

"*Nunavik Inuit AIP*" means the "*Nunavik Inuit Marine Region Agreement-in-Principle*";

"*NMR*" means the "*Nunavik Marine Region*";

"*Nunavik Marine Region*" or "*NMR*" means the area described in Article 3 of the Nunavik Inuit AIP as amended by section 1.7 hereof and including the Overlap Area;

"*Nunavut Land Claims Agreement*" means the Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada ratified, given effect and declared valid by the *Nunavut Land Claims Agreement*, S.C. 1993, c. 29;

"*Overlap Area*" means the "Cree/Inuit Offshore Overlapping Interests Area";

"*Total Allowable Take*" for a species, stock or population means an amount of wildlife able to be lawfully harvested;

"*resources*" includes lands, minerals, wildlife, water and the environment generally;

"*wildlife*" means all terrestrial, aquatic, avian and amphibian flora and fauna *ferae naturae*, and all parts and products thereof;

"*water*" means waters in any river, stream, lake or other body of inland waters on the surface or underground and includes all inland ground waters and ice.

3.2 The preamble and schedules referred to in this Agreement form an integral part hereof.

3.3 The Overlap Area constitutes part of both the NMR and of the EMR.

PART IV - WILDLIFE HARVESTING

4.1 Subject to the terms of this Agreement, throughout the Overlap Area, the Nunavik Inuit and the Crees of Eeyou Istchee shall have the same rights respecting the harvest of wildlife, with these rights being exercised in accordance with their respective customs and traditions in a manner so as not to compromise each other's harvesting activities.

4.2 The Nunavik Inuit shall not, without the consent of the Crees of Eeyou Istchee, harvest for commercial purposes nor exercise any harvest rights of a commercial nature or any rights to operate outfitting or recreational harvest facilities in the Cree Zone. The Crees of Eeyou Istchee shall not, without the consent of the Nunavik Inuit, harvest for commercial purposes nor exercise any harvest rights of a commercial nature or any rights to operate outfitting or recreational harvest facilities in the Inuit Zone.

4.3 Where the Basic Needs Levels for the Overlap Area of both the Nunavik Inuit and of the Crees of Eeyou Istchee exceed the Total Allowable Take in the Overlap Area for a specific species, stock or population of wildlife, the Total Allowable Take in the Overlap Area for the concerned species, stock or population of wildlife shall be allocated between the Nunavik Inuit and the Crees of Eeyou Istchee so as to reflect the ratio of their Basic Needs Levels for that species, stock or population, and both such allocations shall be awarded the same order of priority.

4.4 In the Joint Zone, the Total Allowable Take, the Basic Needs Levels and all other wildlife management responsibilities shall be jointly and equally determined and assumed by the bodies responsible for such under the Nunavik Inuit Final Agreement and the Crees of Eeyou Istchee Final Agreement. The Nunavik Inuit and the Crees of Eeyou Istchee shall have equal participation and an equal voice in such bodies when such bodies are making decisions or carrying out their responsibilities related to wildlife management in the Joint Zone.

4.5 In the Inuit Zone, the Total Allowable Take, the Basic Needs Levels and all other wildlife management responsibilities shall be determined and assumed by the body responsible for such under the Nunavik Inuit Final Agreement. The Crees of Eeyou Istchee shall be entitled to have an observer with the right of participating in the deliberations of such body when it is making any decisions or carrying out any of its responsibilities. This observer shall moreover be entitled to vote in such body and to replace an Inuit nominee therein when it is making decisions or carrying out its responsibilities related to wildlife management in the Inuit Zone.

4.6 In the Cree Zone, the Total Allowable Take, the Basic Needs Levels and all other wildlife management responsibilities shall be determined and assumed by the body responsible for such under the Crees of Eeyou Istchee Final Agreement.

The Nunavik Inuit shall be entitled to have an observer with the right of participating in the deliberations of such body when it is making any decisions or carrying out any of its responsibilities. This observer shall moreover be entitled to vote in such body and to replace a Cree nominee therein when it is making decisions or carrying out its responsibilities related to wildlife management in the Cree Zone.

4.7 For greater certainty, the presumptions as to needs provided in sections 5.3.7 to 5.3.12 and the allocation of Total Allowable Take provided for in sections 5.3.13 and 5.3.14 of the Nunavik Inuit AIP (and any related provisions in the Nunavik Inuit Final Agreement) as well as any similar provisions in the Crees of Eeyou Istchee Final Agreement shall be shared and applied throughout the Overlap Area in a manner consistent with the level of harvest of each group within the Overlap Area.

4.8 The right of first refusal to establish and operate new commercial operations set out in section 5.3.15 of the Nunavik Inuit AIP (and any related provisions in the Nunavik Inuit Final Agreement) and any similar provisions in the Crees of Eeyou Istchee Final Agreement shall be jointly and equally held by Nunavik Inuit and the Crees of Eeyou Istchee in the Joint Zone. In the Cree Zone, this right will be exclusively exercised by the Crees of Eeyou Istchee. In the Inuit Zone, this right will be exclusively exercised by the Nunavik Inuit.

4.9 The GCC(EI) shall represent the Crees of Eeyou Istchee for all purposes related to wildlife management in the Joint Zone and in the Inuit Zone unless the GCC(EI) designates another organization for such purposes. Makivik Corporation shall represent the Nunavik Inuit for all purposes related to wildlife management in the Joint Zone and in the Cree Zone unless Makivik Corporation designates another organization for such purposes.

PART V - LAND OWNERSHIP IN THE OVERLAP AREA

A) JOINT ZONE

5.1 In the Joint Zone, lands may be selected pursuant to Article 11 of the Nunavik Inuit AIP (or its equivalent in the Nunavik Inuit Final Agreement) or pursuant to similar provisions under the Crees of Eeyou Istchee Final Agreement, only with the consent of both the GCC(EI) and of Makivik Corporation, which consent shall not be arbitrarily or unreasonably withheld.

5.2 Unless the GCC(EI) and Makivik Corporation agree otherwise, in the Joint Zone, all the lands shall be selected for joint ownership by the Crees of Eeyou Istchee and the Nunavik Inuit, and all lands selected therein by either group shall be jointly owned as provided herein.

5.3 In respect to any lands in the Joint Zone which are withdrawn from disposal under the *Territorial Land Act* or the *Commissioner's Land Act*, as may be applicable, and which require the consent of either Makivik or of the GCC(EI) to be leased or otherwise alienated, the parties agree that neither the consent of Makivik or of the GCC(EI) will be provided for such purposes unless both Makivik and the GCC(EI) jointly consent to said lease or alienation.

5.4 Upon the ratification of either the Nunavik Inuit Final Agreement or the Crees of Eeyou Istchee Final Agreement, whichever comes first, the lands selected by either the Nunavik Inuit or the Crees of Eeyou Istchee in the Joint Zone shall vest equally in a MDO on behalf of and for the benefit of Nunavik Inuit and in a GDO on behalf of and for the benefit of the Crees of Eeyou Istchee, as joint tenants and not as tenants in common. The Crees of Eeyou Istchee and the Nunavik Inuit shall have, through the MDO and the GDO respectively, the same and equal interests in such lands.

5.5 All provisions of the Nunavik Final Agreement applying to Nunavik Inuit Lands under the meaning of that Final Agreement, except provisions incompatible with the present Agreement such as provisions providing for vesting of Nunavik Inuit Land, but including provisions respecting property descriptions, surveys and boundaries, shall also apply to the jointly owned lands in the Joint Zone. Any rights or powers of a MDO under the Nunavik Final Agreement in respect of Nunavik Inuit Lands shall be exercised and enjoyed jointly and equally by a MDO and a GDO in respect of the jointly owned lands in the Joint Zone.

5.6 All provisions of the Crees of Eeyou Istchee Final Agreement applying to Cree Lands under the meaning of that Final Agreement, except provisions incompatible with the present Agreement such as provisions for vesting of Cree Lands, but including provisions respecting property descriptions, surveys and boundaries, shall also apply to the jointly owned lands in the Joint Zone. Any rights or powers of a GDO under the Crees of Eeyou Istchee Final Agreement in respect of Cree Lands shall be exercised and enjoyed jointly and equally by a GDO and a MDO in respect of the jointly owned lands in the Joint Zone.

5.7 With respect to any lands in the Joint Zone, and notwithstanding any other rule or process provided by statute, at law or in equity, neither the Nunavik Inuit nor the Crees of Eeyou Istchee shall:

a) create or dispose of a legal or equitable interest to or in the lands;

b) seek or submit to sever or partition the lands;

c) establish or operate facilities associated with the sports or commercial use of wildlife or facilities associated with the observations, study or enjoyment of natural or cultural features of the land; or

d) make use of the lands so as to cause physical alteration or in any way diminish their value;

without the prior written consent of both the Nunavik Inuit and the Crees of Eeyou Istchee acting through a MDO and a GDO respectively, and any act or instrument purporting to do so shall be null, void and of no effect.

B) CREE ZONE

5.8 In the Cree Zone, to the exception of the lands described in schedule 6, no land may be selected by the Nunavik Inuit pursuant to Article 11 of the Nunavik Inuit AIP (or its equivalent in the Nunavik Inuit Final Agreement); and all other land selections made by the Nunavik Inuit pursuant to the Nunavik Inuit Final Agreement must be carried out in such a fashion as to ensure that the Cree of Eeyou Istchee will be capable of selecting for exclusive ownership 80% of the lands in the Cree Zone should they so desire.

5.9 The lands described in Schedule 6 will be taken out of the 80% land allocation for the Nunavik Inuit outside the Overlap Area and will not affect in any way the land allocation of the Crees of Eeyou Istchee as set out in the Crees of Eeyou Istchee Final Agreement.

C) INUIT ZONE

5.10 In the Inuit Zone, no lands may be selected by the Crees of Eeyou Istchee pursuant to the Crees of Eeyou Istchee Final Agreement and all other land selections made by the Crees of Eeyou Istchee pursuant to the Crees of Eeyou Istchee Final Agreement must be carried out in such a fashion as to ensure that the Nunavik Inuit will be capable of selecting for exclusive ownership 80% of the lands in the Inuit Zone should they so desire.

PART VI - OTHER INTERESTS, BENEFITS AND REVENUES

6.1 Notwithstanding any other provisions of the Nunavik Inuit Final Agreement and of the Crees of Eeyou Istchee Final Agreement, the Nunavik Inuit and the Crees of Eeyou Istchee shall jointly and equally benefit and share all and any interests, benefits and revenues arising, derived or related to the Joint Zone (including marine resources) and provided by or resulting from either or both Final Agreements.

6.2 For greater certainty, and without limiting the provisions of section 6.1, the Nunavik Inuit and the Crees of Eeyou Istchee shall jointly and equally benefit and share all and any revenues obtained by either and arising, derived or related to the Joint Zone and resulting from any right or interest to a share of resource revenues or resource royalties provided by either or both the Nunavik Inuit Final Agreement or the Crees of Eeyou Istchee Final Agreement.

6.3 In the Joint Zone, the rights of the Nunavik Inuit pursuant to Articles 12 (Protected Areas), 20 (Archaeology) and 21 (Ethnographic Resources and

Archival Records) of the Nunavik Inuit AIP (and the related provisions of the Nunavik Inuit Final Agreement) shall be jointly held and shall apply on an equal basis to the Crees of Eeyou Istchee, and the functions of a MDO pursuant to these articles shall be exercised by an organization jointly designated by the GCC(EI) and Makivik Corporation to exercise these functions.

6.4 In the Cree Zone, the rights of the Nunavik Inuit pursuant to Articles 12, 20 and 21 of the Nunavik Inuit AIP (and the related provisions of the Nunavik Inuit Final Agreement) shall not be exercised and shall be fully transferred and assigned to the Crees of Eeyou Istchee to be held and exercised by the GCC(EI) or a GDO. In the event an archaeological find in the Eeyou Marine Region outside the Joint Zone can be reasonably attributed to Inuit populations, the GDO responsible for such shall consult Makivik in regard to the use and ownership of such find and of the artefacts related thereto.

6.5 In the Inuit Zone, the Crees of Eeyou Istchee shall not exercise under the Crees of Eeyou Istchee Final Agreement any rights similar to or equivalent to those set out pursuant to Articles 12, 20 and 21 of the Nunavik Inuit AIP. In the event an archaeological find in the Nunavik Marine Region outside the Joint Zone can be reasonably attributed to Cree populations, the MDO responsible for such shall consult the GCC(EI) in regard to the use and ownership of such find and of the artefacts related thereto.

6.6 Neither the Crees of Eeyou Istchee nor the Nunavik Inuit shall carry out any mineral resources development or any other economic or business related activities on Crown lands in the Joint Zone without the consent of the other. Such consent may be given by the GCC(EI) for the Crees of Eeyou Istchee and by Makivik Corporation for the Nunavik Inuit.

6.7 Neither the Crees of Eeyou Istchee nor the Nunavik Inuit shall operate any wildlife outfitting activities (including sport lodges and naturalist lodges) or commercial wildlife harvesting anywhere in the Joint Zone (including marine areas and Crown lands) without the consent of the other. Such consent may be given by the GCC(EI) for the Crees of Eeyou Istchee and by Makivik Corporation for the Nunavik Inuit.

6.8 Should either the Crees of Eeyou Istchee or the Nunavik Inuit wish to carry out mineral resources development activities or other economic or business related activities in marine areas located in the Joint Zone, they shall consult the other before proceeding with such activities. Such consultation shall be carried out with the GCC(EI) for the Crees of Eeyou Istchee and with Makivik Corporation for the Nunavik Inuit.

PART VII - MANAGEMENT IN THE OVERLAP AREA

7.1 In the Cree Zone, the management regimes provided in the Crees of Eeyou Istchee Final Agreement, including those related to wildlife management, planning, land and water management and development impact assessment, shall apply and shall be substituted to any other similar regimes provided for in the Nunavik Inuit Final Agreement.

7.2 When making a decision concerning the Cree Zone which may directly affect rights or interest of Nunavik Inuit, the bodies or organizations designated or created pursuant to the Crees of Eeyou Istchee Final Agreement for planning, land and water management and development impact assessment, shall ensure the effective participation and an effective voice for the Nunavik Inuit in such body or organization when making such decision.

7.3 In the Inuit Zone, the management regimes provided in the Nunavik Inuit Final Agreement, including those related to wildlife management, planning, land and water management and development impact assessment, shall apply and shall be substituted to any other similar regimes provided for in the Crees of Eeyou Istchee Final Agreement.

7.4 When making a decision concerning the Inuit Zone which may directly affect rights or interests of Crees of Eeyou Istchee, the bodies or organization designated or created pursuant to the Nunavik Inuit Final Agreement for planning, land and water management and development impact assessment, shall ensure the effective participation and an effective voice for the Crees of Eeyou Istchee in such body or organization when making such decision.

7.5 In the Joint Zone, the management regimes provided in both the Nunavik Inuit Final Agreement and the Crees of Eeyou Istchee Final Agreement, including those related to wildlife management, planning, land and water management and development impact assessment, shall apply jointly and equally. The Nunavik Inuit and the Crees of Eeyou Istchee shall have equal participation and an equal voice in the bodies or organisations designated or created under these Final Agreements for such purposes when they are making decisions or carrying out their responsibilities in the Joint zone.

7.6 In the event the Nunavik Inuit Final Agreement is ratified prior to the Crees of Eeyou Istchee Final Agreement, the GCC(EI) shall exercise all management responsibilities for the Crees of Eeyou Istchee in the Joint Zone in order to render effective sections 7.4 and 7.5 hereof between the date the Nunavik Inuit Final Agreement becomes effective and the date the Crees of Eeyou Istchee Final Agreement becomes effective.

7.7 In the event the Crees of Eeyou Istchee Final Agreement is ratified prior to the Nunavik Inuit Final Agreement, Makivik shall exercise all management

responsibilities for the Nunavik Inuit in the Joint Zone in order to render effective sections 7.2 and 7.5 hereof between the date the Crees of Eeyou Istchee Final Agreement becomes effective and the date the Nunavik Inuit Final Agreement becomes effective.

PART VIII - SETTLEMENT OF DISPUTES

8.1 Generally, the parties will endeavour to avoid recourse to the judicial system for the purposes of the interpretation and implementation of this Agreement and the provisions of the Nunavik Inuit Final Agreement and of the Crees of Eeyou Istchee Final Agreement reproducing this Agreement. To this end, the parties agree to put in place a dispute resolution mechanism to ensure that recourse to courts or other forums only occurs as a last resort.

8.2 For the purposes of this dispute resolution mechanism, a dispute is defined as any controversy, claim or disagreement arising out of the interpretation or implementation of this Agreement or of the provisions of either the Nunavik Inuit Final Agreement or of the Crees of Eeyou Istchee Final Agreement reproducing this Agreement and which is formally raised by any of the parties for these purposes.

8.3 The only parties authorized to bring disputes for resolution under the present dispute resolution mechanism are the GCC(EI) or a GDO and Makivik Corporation or a MDO.

8.4 The parties will endeavour in good faith to settle the dispute through cooperation and consultation in order to arrive at a mutually satisfactory solution.

8.5 Failing resolution by the parties, the dispute shall be referred to an independent and impartial third party for mediation as hereinafter set out:

a) the mediator shall be chosen jointly by the parties, and failing agreement, by a Judge of the Québec Superior Court, upon application to the court;

b) the parties shall each submit to the mediator their views on the issue in dispute;

c) the parties undertake that as a condition of the mediation process, to renounce to any prescription acquired and to agree that prescription (if applicable) of any right, claim or matter which is the subject of the dispute shall be interrupted and shall, if necessary, be specifically renounced from time to time until the mediator declares the mediation process to be at an end;

d) the mediation process and all proceedings in connection therewith shall be and will remain confidential;

e) the mediator shall not issue a report or make any recommendations unless authorized to do so by all the parties;

f) any party may request that the mediator terminate the mediation process when there are reasonable and probable grounds to believe that, despite the best efforts of the parties acting in good faith, no settlement is likely to be reached in the dispute through mediation.

8.6 At any time during the course of the mediation process, the parties may agree to grant to the mediator the powers, authority and jurisdiction of an arbitrator, including those of an *amiable compositeur*, the whole within the meaning, and as set out in the Civil Code of Québec and the Code of Civil Procedure of Québec.

8.7 Each party will assume its expenses related to the mediation and half the expenses and fees of the mediator.

PART IX - STATUS AND SECURITY OF RIGHTS

9.1 In addition to any person or body that is recognized by laws of general application as having standing, a MDO on behalf of the Nunavik Inuit and a GDO on behalf of the Crees of Eeyou Istchee shall have standing before an appropriate court or other body to enforce this Agreement and the provisions of the Nunavik Inuit Final Agreement and of the Crees of Eeyou Istchee Final Agreement in which the terms of this Agreement are reproduced, against the Crown or any person.

9.2 This Agreement, and the provisions of the Nunavik Inuit Final Agreement and of the Crees of Eeyou Istchee Final Agreement in which its terms are reproduced, shall not be amended without the prior written consent of both the GCC(EI) and of Makivik.

9.3 The parties will ensure that the Government of Canada will not include any provisions contrary to this Agreement in either the Nunavik Inuit Final Agreement, the Crees of Eeyou Istchee Final Agreement or in any legislation implementing their terms.

SIGNATURES

AND THE PARTIES HAVE SIGNED at Whapmagoostui / Kuujjuaraapik, this 30th day of April, 2003.

GRAND COUNCIL OF THE CREES (EEYOU ISTCHEE)

Per: *(S) Ted Moses*

(S) Roderick Pachano
Witness

Per: *(S) David Masty*

MAKIVIK CORPORATION

Per : *(S) Pita Aatami*

(S) Anthony Ittoshat
Witness

Per: *(S) Johnny Peters*

SCHEDULE 1 - GEOGRAPHIC COORDINATES OF THE CREE/INUIT OFFSHORE OVERLAPPING INTERESTS AREA

The Cree/Inuit Offshore Overlapping Interests Area (Overlap Area), as illustrated on Schedule 1a and Schedule 5, includes all the marine areas, islands, lands and waters within the following boundary:

1. Commencing at the boundary of Québec south of Chisasibi, as illustrated on Schedule 1a and Schedule 1b, at the intersection of 53°45'31"N latitude and approximate 79°04'56"W longitude;

2. thence west following 53°45'31"N latitude to a point at the intersection of 79°06'55"W longitude, south of Tiny Island and north of locally known Aahchikuyaaniminishtikw Island;

3. thence northwesterly following the geodesic line to a point at the intersection of 54°00'N latitude and 80°50'W longitude;

4. thence northwesterly following the geodesic line to a point at the intersection of 54°30'N latitude and 81°20'W longitude, northwest of Bear Island;

5. thence northeasterly following the geodesic line to a point at the intersection of 55°00'N latitude and 81°00'W longitude, east of Cape Henrietta Maria, Ontario, being a point coincident with the Nunavut Settlement Area (NSA), as defined in the Nunavut Land Claims Agreement;

6. thence east, coincident with the NSA, following 55°00'N latitude to a point at the intersection with 79°45'W longitude, north of Long Island;

7. thence northeasterly, coincident with the NSA, to a point at the intersection of 55°15'N latitude and 79°00'W longitude, northeast of Long Island and southwest of Kuujjuaraapik and Whapmagoostui, Québec;

8. thence northeasterly, coincident with the NSA, to a point at the intersection of 55°45'N latitude and 78°00'W longitude, northwest of Kuujjuaraapik and Whapmagoostui, Québec;

9. thence northeasterly, coincident with the NSA, to a point at the intersection of 56°00'N latitude and 77°30'W longitude, east of the Innetalling Island and northwest of Duck Island;

10. thence northeasterly, coincident with the NSA, to a point at the intersection of 56°22'N latitude and 77°25'W longitude, east of the Salliquit Islands and west of the Nastapoka Islands;

11. thence north following 77°25'W longitude, coincident with the NSA, to a point at the intersection of 57°00'N latitude;

12. thence northwesterly, coincident with the NSA, to a point at the intersection of 57°40'N latitude and 78°00'W longitude;

13. thence north following 78°00'W longitude to a point at the intersection of 57°47'56"N latitude;

14. thence east following 57°47'56"N latitude, passing approximately one kilometer north of Cotter Island, as illustrated on Schedule 1c, to a point at the intersection with the boundary of Québec at approximate 76°58'45"W longitude;

    thence in a general southerly direction following the boundary of Québec to the point of commencement.

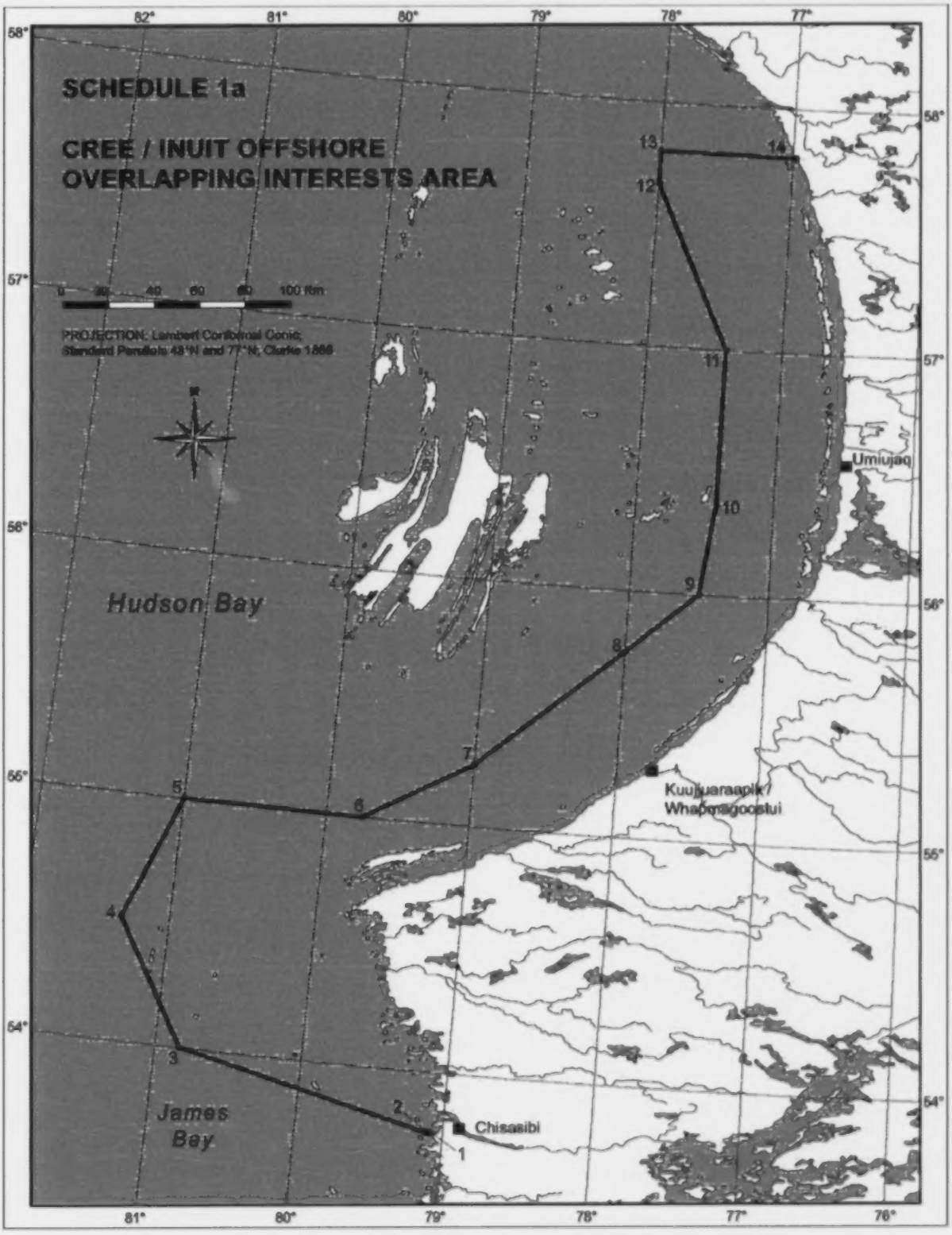
NOTES:

Where topographic descriptions conflict with geographic coordinates, the topographic descriptions reflect the intention of the parties, and shall prevail.

When the maps attached conflict with the geographic coordinates or topographic descriptions, the geographic coordinates or topographic descriptions reflect the intent of the parties and shall prevail.

All coordinates are in reference to North American Datum 1927(NAD 27).

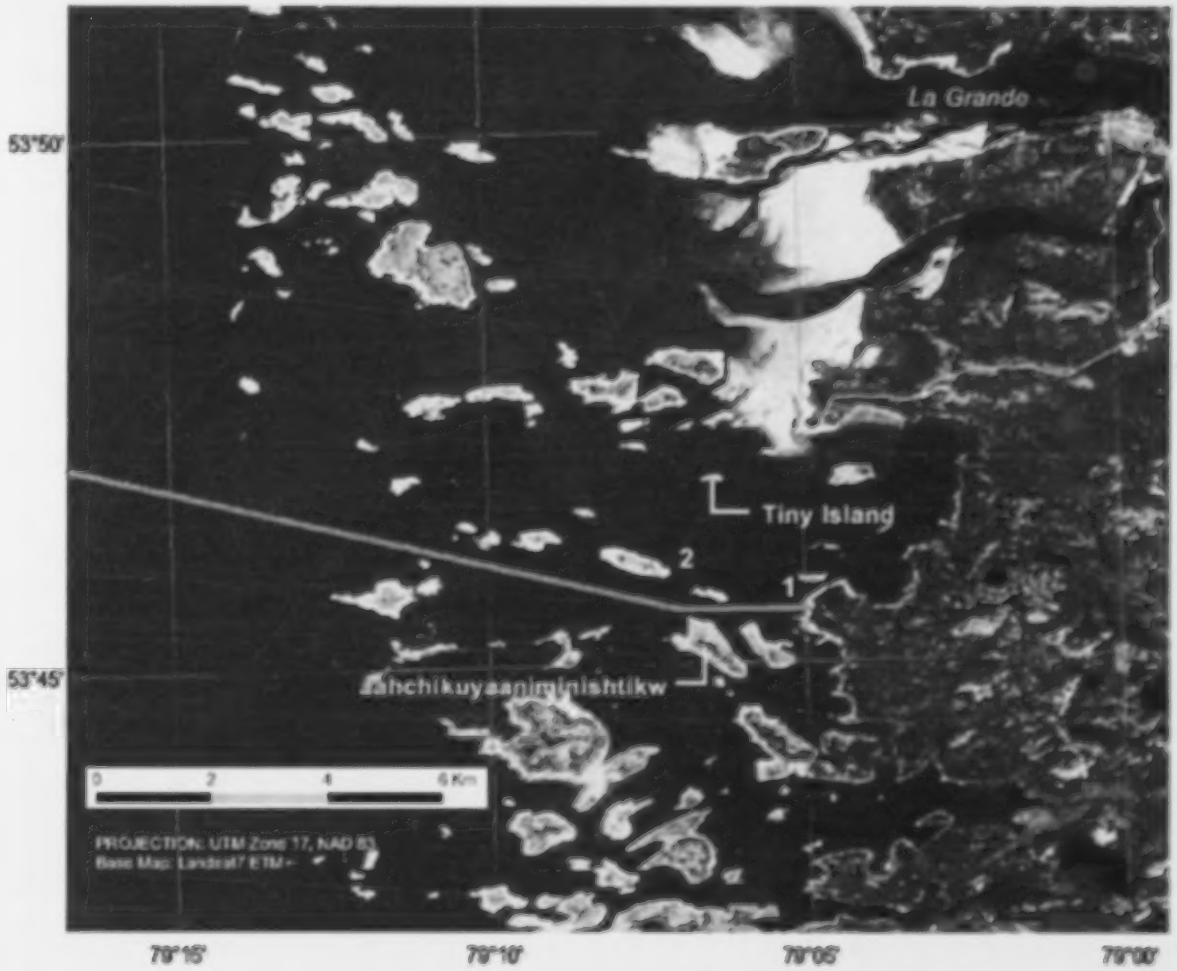
SCHEDULE 1A -
MAP "CREE/INUIT OFFSHORE OVERLAPPING INTERESTS AREA"


SCHEDULE 1a
CREE / INUIT OFFSHORE
OVERLAPPING INTERESTS AREA
0 20 40 60 80 100 Km
PROJECTION: Lambert Conformal Conic;
Standard Parallels 49°N and 77°N; Clarke 1866
Hudson Bay
James Bay
Umiujaq
Kuujjuaraapik / Whapmagoostui
Chisasibi
1
2
3
4
5
6
7
8
9
10
11
12
13
14
82°
81°
80°
79°
78°
77°
76°
58°
57°
56°
55°
54°

SCHEDULE 1B -
MAP "SOUTHERN BOUNDARY OF THE CREE / INUIT OFFSHORE OVERLAPPING INTERESTS AREA"

SCHEDULE 1b

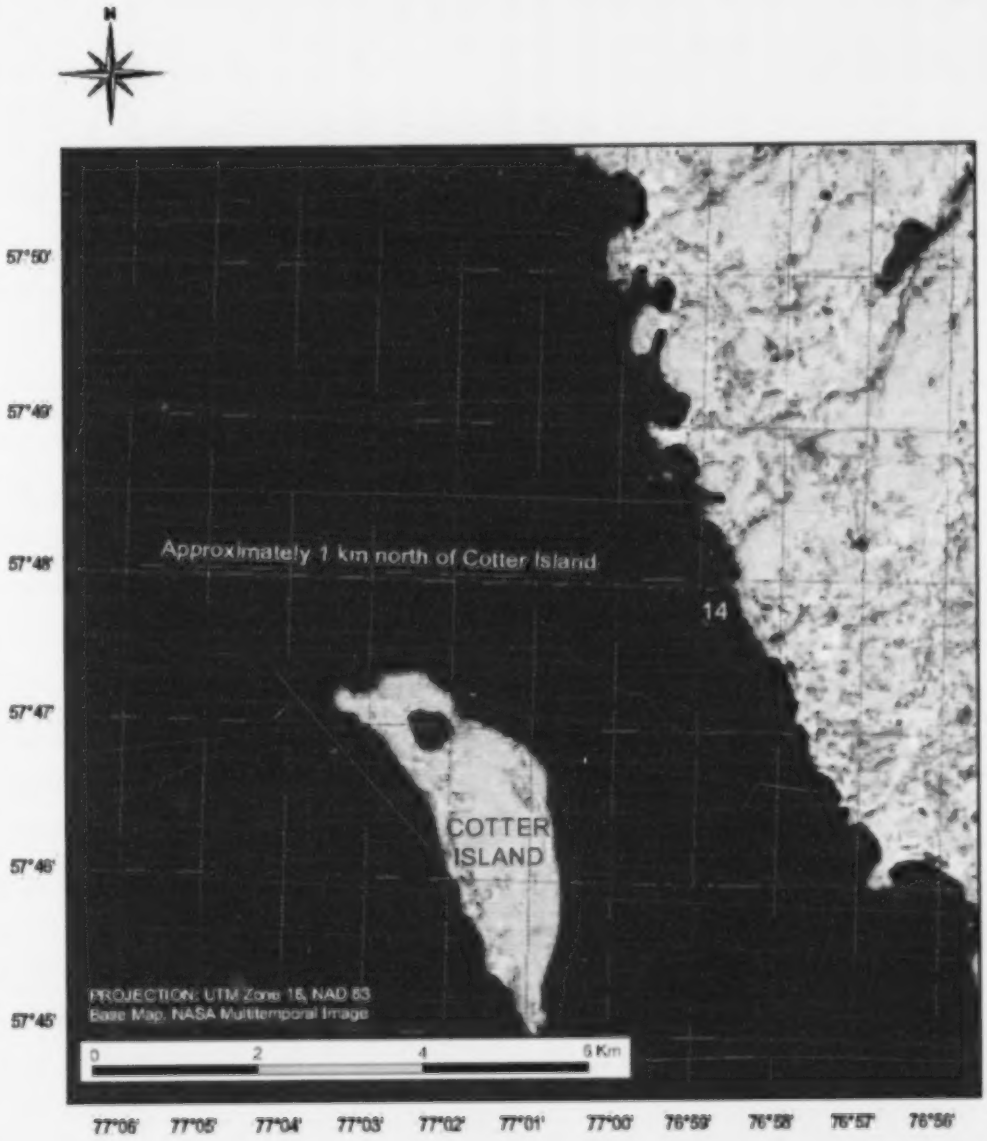
SOUTHERN BOUNDARY OF THE CREE / INUIT OFFSHORE OVERLAPPING INTERESTS AREA



SCHEDULE 1C -
MAP "NORTHERN BOUNDARY OF THE CREE / INUIT OFFSHORE OVERLAPPING INTERESTS AREA"

SCHEDULE 1c

NORTHERN BOUNDARY OF THE CREE / INUIT OFFSHORE OVERLAPPING INTERESTS AREA



SCHEDULE 2 - GEOGRAPHIC COORDINATES OF THE JOINT INUIT / CREE ZONE

The Joint Inuit/Cree Zone (Joint Zone), as illustrated on Schedule 2a, includes all the marine areas, islands, lands and waters in the Cree/Inuit Offshore Overlapping Interests Area within the following boundary:

1. Commencing on the boundary of Québec at the northwestern tip of Cape Jones (locally known as Aahaashaakaach Akuminaan Aanaayaach / Tikiraujaaraaluk) northeast of Pointe Louis XIV at approximate 54°38'55"N latitude and approximate 79°45'00"W longitude, as illustrated on Schedule 2b;

2. thence northwesterly following the geodesic line to a point at the intersection of 54°46'N latitude and 80°00'W longitude, southwest of Long Island;

3. thence north following 80°00'W longitude to a point at the intersection of 55°00'N latitude, northwest of Long Island, being coincident with the Nunavut Settlement Area (NSA), as defined in the Nunavut Land Claims Agreement;

4. thence east, coincident with the NSA, following 55°00'N latitude to a point at the intersection with 79°45'W longitude, north of Long Island, for greater certainty being also point 6 of Schedule 1;

5. thence northeasterly, coincident with the NSA, to a point at the intersection of 55°15'N latitude and 79°00'W longitude, northeast of Long Island and southwest of Kuujjuaraapik and Whapmagoostui, Québec, for greater certainty being also point 7 of Schedule 1;

6. thence northeasterly, coincident with the NSA, to a point at the intersection of 55°45'N latitude and 78°00'W longitude, northwest of Kuujjuaraapik and Whapmagoostui, Québec, for greater certainty being also point 8 of Schedule 1;

7. thence northeasterly, coincident with the NSA, to a point at the intersection of 56°00'N latitude and 77°30'W longitude, east of the Innetalling Island and northwest of Duck Island, for greater certainty being also point 9 of Schedule 1;

8. thence northeasterly, coincident with the NSA, to a point at the intersection of 56°22'N latitude and 77°25'W longitude, east of the Salliquit Islands and west of the Nastapoka Islands, for greater certainty being also point 10 of Schedule 1;

9. thence, coincident with the NSA, north following 77°25'W longitude to a point at the intersection of 56°43'12"N latitude, west of the Nastapoka Islands, for greater certainty being also point 4 of Schedule 4;

10. thence east, as illustrated in Schedule 2c, following 56°43'12"N latitude to a point at the intersection of 76°38'28"W longitude, south of Taylor Island and north of Gillies Island, for greater certainty being also point 3 of Schedule 4;

11. thence southeasterly following a geodesic line between Taylor and Gillies Islands to a point at the intersection of 56°42'51"N latitude and 76°37'21"W longitude, south of Taylor Island and north of Gillies Island, for greater certainty being also point 2 of Schedule 4;

12. thence east following 56°42'51"N latitude to a point at the intersection with the boundary of Québec south of Riviere Devaux, at approximate 76°32'10"W longitude, for greater certainty being also point 1 of Schedule 4;

    thence in a general southerly direction following the boundary of Québec to the point of commencement.

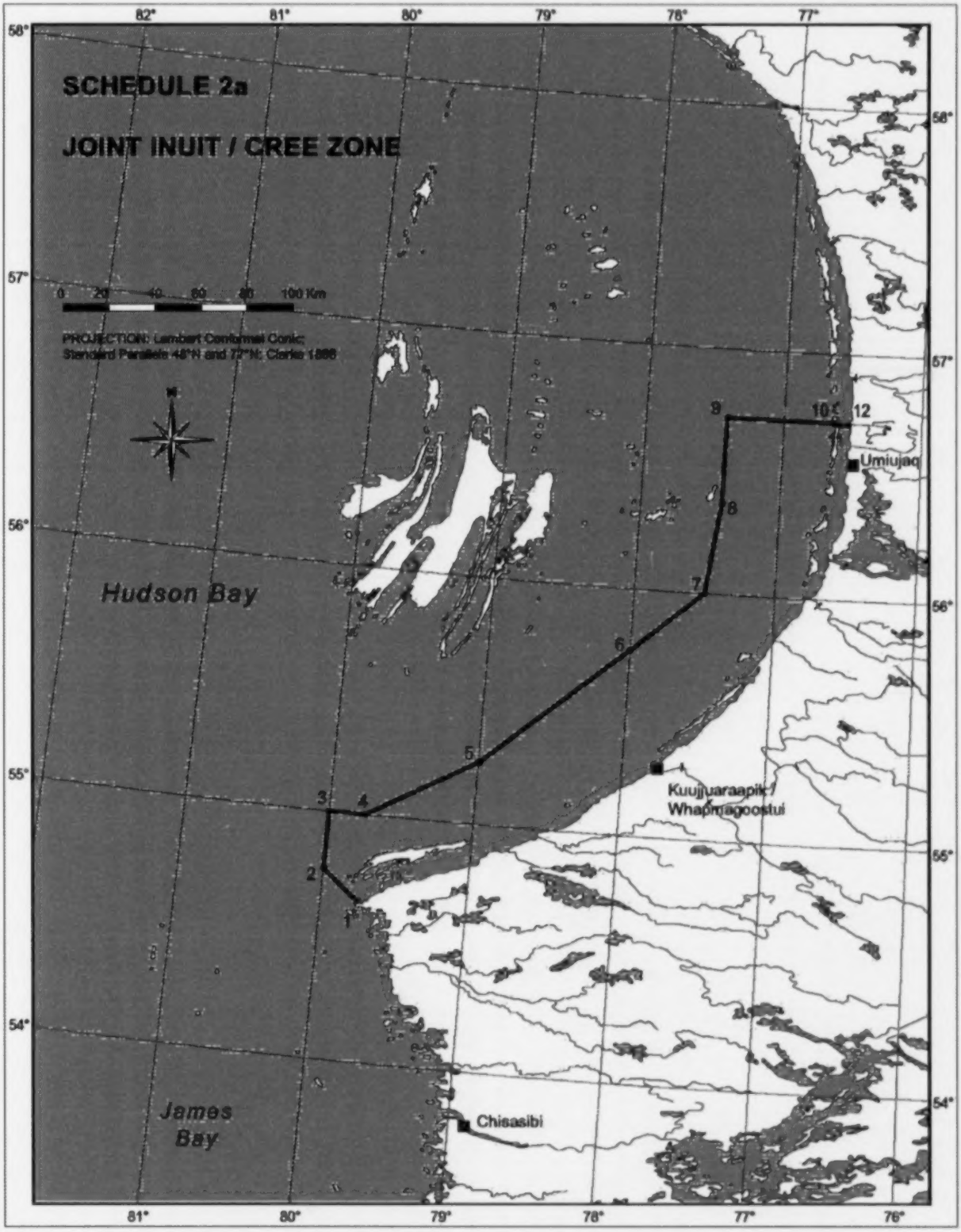
NOTES:

Where topographic descriptions conflict with geographic coordinates, the topographic descriptions reflect the intention of the parties, and shall prevail.

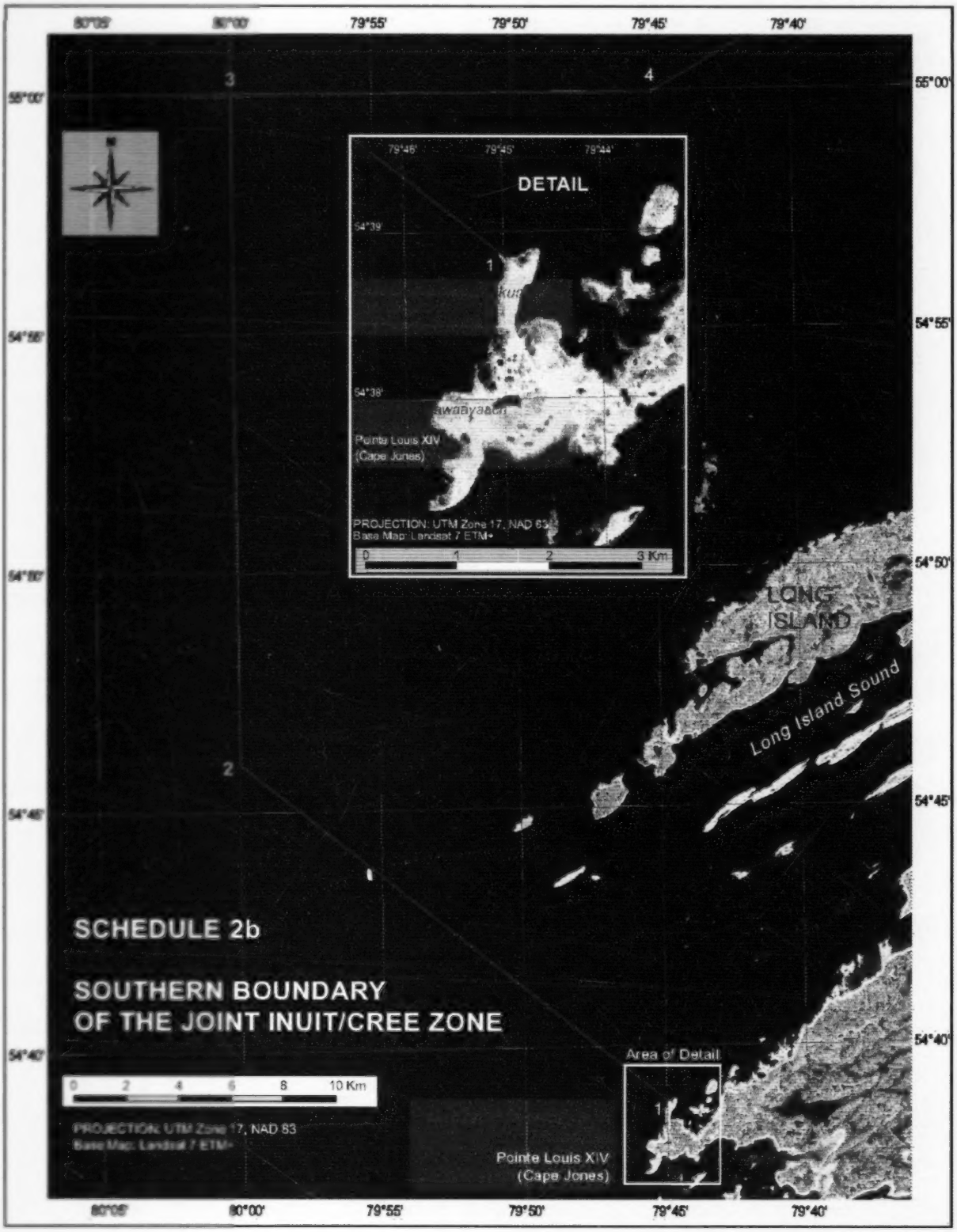
When the maps attached conflict with the geographic coordinates or topographic descriptions, the geographic coordinates or topographic descriptions reflect the intent of the parties and shall prevail.

All coordinates are in reference to North American Datum 1927(NAD 27).

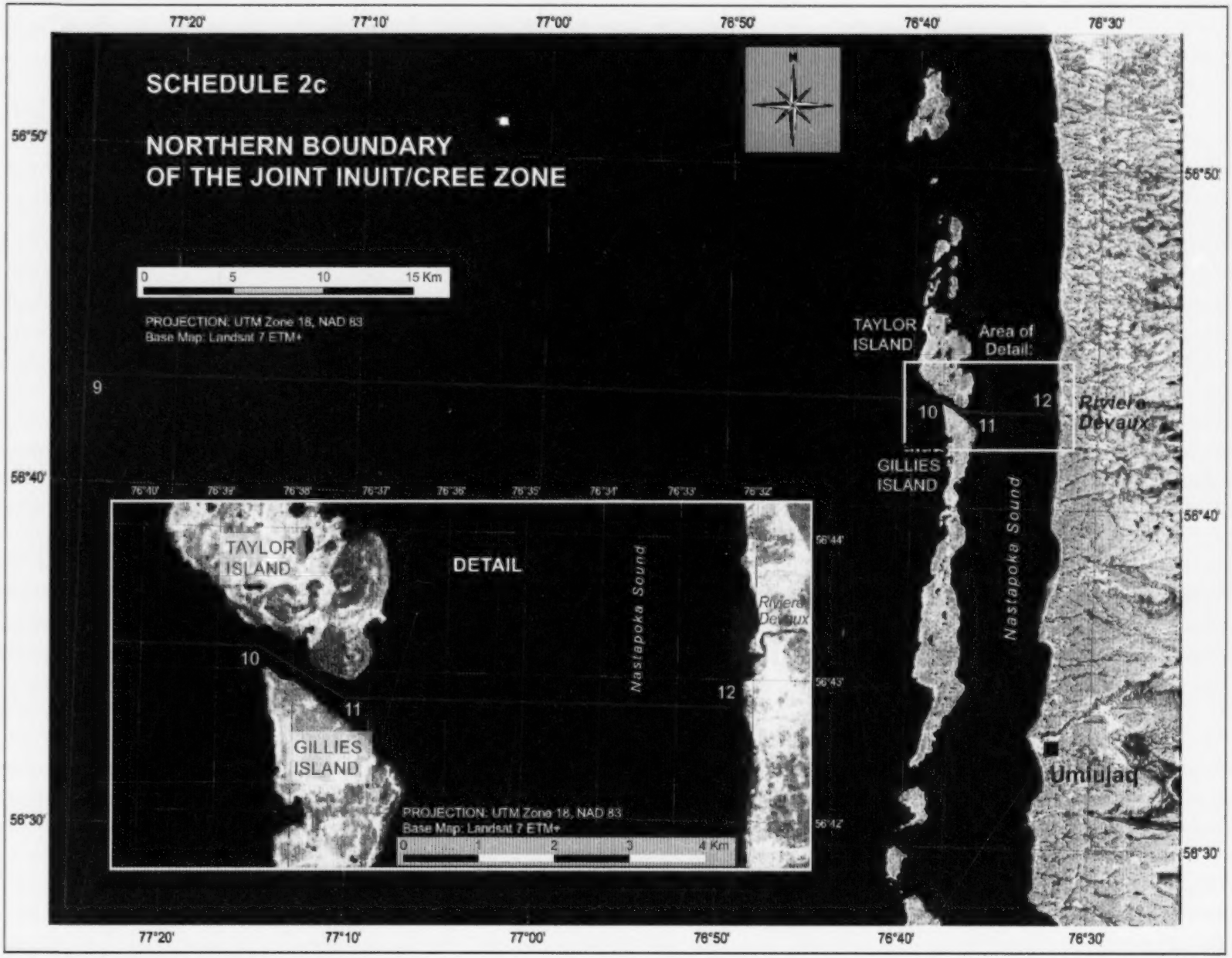
SCHEDULE 2A -
MAP "JOINT INUIT / CREE ZONE"


SCHEDULE 2a
JOINT INUIT / CREE ZONE
0 20 40 60 80 100 Km
PROJECTION: Lambert Conformal Conic;
Standard Parallels 48°N and 72°N; Clarke 1866
Hudson Bay
James Bay
Umiujaq
Kuujjuaraapik / Whapmagoostui
Chisasibi
1
2
3
4
5
6
7
8
9
10
12
82°
81°
80°
79°
78°
77°
76°
58°
57°
56°
55°
54°

SCHEDULE 2B -
MAP "SOUTHERN BOUNDARY OF THE JOINT INUIT / CREE ZONE"


80°05'
80°00'
79°55'
79°50'
79°45'
79°40'
55°00'
54°55'
54°50'
54°45'
54°40'
3
4
2
1
DETAIL
79°46'
79°45'
79°44'
54°39'
54°38'
Pointe Louis XIV
(Cape Jones)
PROJECTION: UTM Zone 17, NAD 83
Base Map: Landsat 7 ETM+
0 1 2 3 Km
LONG ISLAND
Long Island Sound
SCHEDULE 2b
SOUTHERN BOUNDARY
OF THE JOINT INUIT/CREE ZONE
0 2 4 6 8 10 Km
PROJECTION: UTM Zone 17, NAD 83
Base Map: Landsat 7 ETM+
Area of Detail
Pointe Louis XIV
(Cape Jones)

SCHEDULE 2C -
MAP "NORTHERN BOUNDARY OF THE JOINT INUIT / CREE ZONE"


SCHEDULE 2c
NORTHERN BOUNDARY
OF THE JOINT INUIT/CREE ZONE
N
0 5 10 15 Km
PROJECTION: UTM Zone 18, NAD 83
Base Map: Landsat 7 ETM+
77°20'
77°10'
77°00'
76°50'
76°40'
76°30'
56°50'
56°40'
56°30'
TAYLOR ISLAND
Area of Detail:
9
10
11
12
Riviere Devaux
GILLIES ISLAND
Nastapoka Sound
Umiujaq
DETAIL
TAYLOR ISLAND
10
11
GILLIES ISLAND
Nastapoka Sound
Riviere Devaux
12
56°44'
56°43'
56°42'
PROJECTION: UTM Zone 18, NAD 83
Base Map: Landsat 7 ETM+
0 1 2 3 4 Km

SCHEDULE 3 - GEOGRAPHIC COORDINATES OF THE CREE ZONE

The Cree Zone, as illustrated on Schedule 3a, includes all the marine areas, islands, lands and waters in the Cree/Inuit Offshore Overlapping Interests Area within the following boundary:

1. Commencing, as illustrated on Schedule 1b and Schedule 3a, on the boundary of Québec, south of Chisasibi, at the intersection of 53°45'31"N latitude and approximate 79°04'56"W longitude, for greater certainty being also point 1 of Schedule 1;

2. thence west following 53°45'31"N latitude to a point at the intersection of 79°06'55"W longitude, south of Tiny Island and north of locally known Aahchikuyaaniminishtikw Island, for greater certainty being also point 2 of Schedule 1;

3. thence northwesterly following the geodesic line to a point at the intersection of 54°00'N latitude and 80°50'W longitude, for greater certainty being also point 3 of Schedule 1;

4. thence northwesterly following the geodesic line to a point at the intersection of 54°30'N latitude and 81°20'W longitude, for greater certainty being also point 4 of Schedule 1;

5. thence northeasterly following the geodesic line to a point at the intersection of 55°00'N latitude and 81°00'W longitude, east of Cape Henrietta Maria, Ontario, being a point coincident with the Nunavut Settlement Area (NSA), as defined in the Nunavut Land Claims Agreement, for greater certainty being also point 5 of Schedule 1;

6. thence east, coincident with the NSA, following 55°00'N latitude to a point at the intersection with 80°00'W longitude, northwest of Long Island, for greater certainty being point 3 of Schedule 2;

7. thence south along 80°00'W longitude to the intersection of 54°46'N latitude, southwest of Long Island, for greater certainty being point 2 of Schedule 2;

8. thence southeasterly, as illustrated on Schedule 2b, following the geodesic line to a point on the boundary of Québec at the northwestern tip of Cape Jones (locally known as Aahaashaakaach Akuminaan Aanaayaach / Tikiraujaaraaluk) northeast of Pointe Louis XIV at approximate 54°38'55"N latitude and approximate 79°45'00"W longitude; for greater certainty being point 1 of Schedule 2;

   thence generally southerly following the boundary of Québec to the point of commencement.

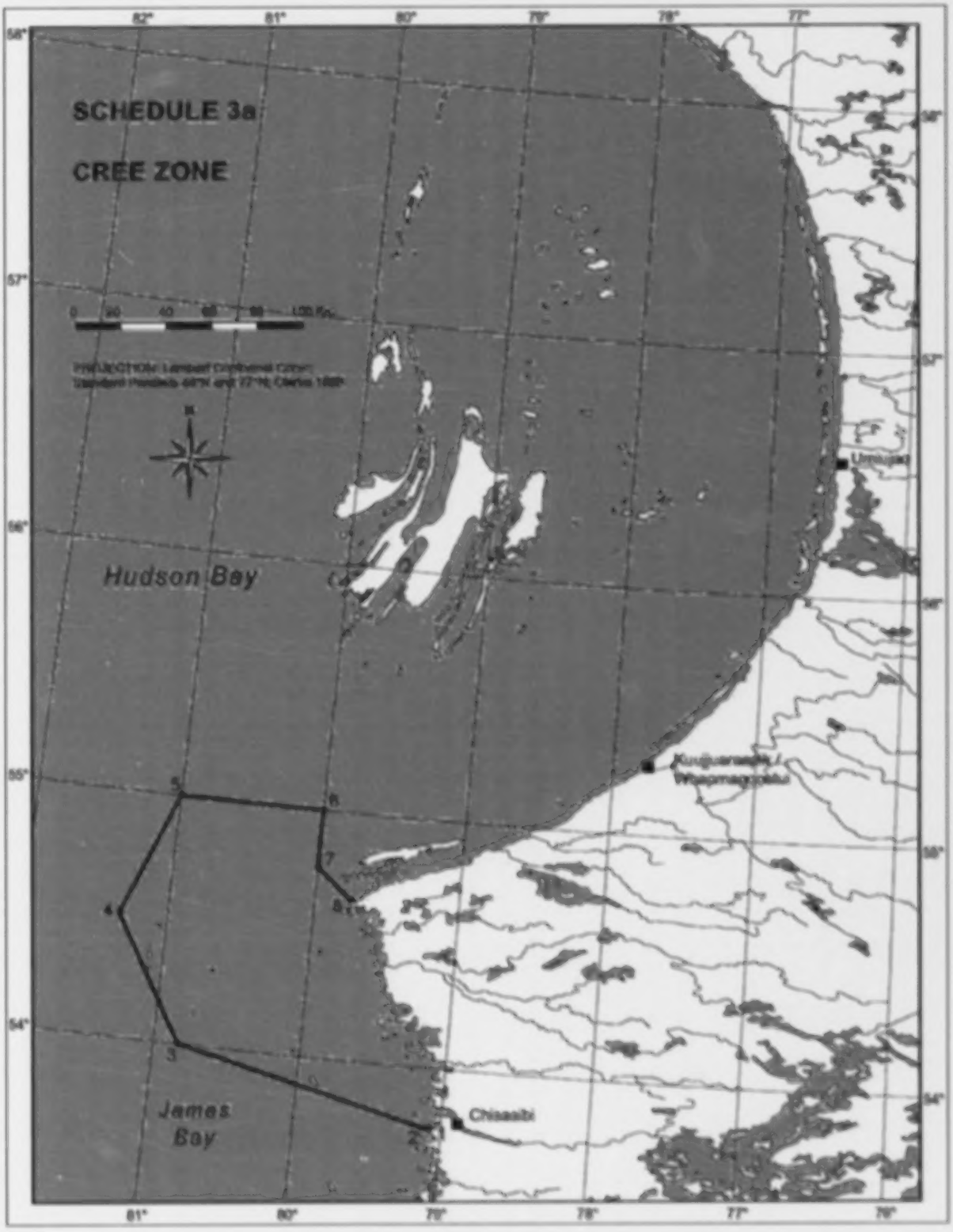
NOTES:

Where topographic descriptions conflict with geographic coordinates, the topographic descriptions reflect the intention of the parties, and shall prevail.

When the maps attached conflict with the geographic coordinates or topographic descriptions, the geographic coordinates or topographic descriptions reflect the intent of the parties and shall prevail.

All coordinates are in reference to North American Datum 1927(NAD 27).

SCHEDULE 3A -
MAP "CREE ZONE"


SCHEDULE 3a
CREE ZONE
Hudson Bay
James Bay
Chisasibi
Umiujaq
Kuujjuarapik / Whapmagoostui
1
2
3
4
5
6
7
8

SCHEDULE 4 -
GEOGRAPHIC COORDINATES OF THE INUIT ZONE

The Inuit Zone, as illustrated on Schedule 4a, includes all the marine areas, islands, lands and waters in the Cree/Inuit Offshore Overlapping Interests Area within the following boundary:

1. Commencing, as illustrated in Schedule 2c and Schedule 4a, on the boundary of Québec, south of Riviere Devaux, at the intersection of 56°42'51"N latitude and approximate 76°32'10"W longitude, for greater certainty being also point 12 of Schedule 2;

2. thence west following 56°42'51"N latitude to a point at the intersection with 76°37'21"W longitude, south of Taylor Island and north of Gillies Island, for greater certainty being also coordinate point 11 of Schedule 2;

3. thence northwesterly following a geodesic line between Taylor and Gillies Islands to a point at the intersection of 56°43'12"N latitude and 76°38'28"W longitude, south of Taylor Island and north of Gillies Island, for greater certainty being also point 10 of Schedule 2;

4. thence west following 56°43'12"N latitude to a point at the intersection of 77°25'W longitude, coincident with the Nunavut Settlement Area (NSA), as defined in the Nunavut Land Claim Agreement, west of the Nastapoka Islands, for greater certainty being also point 9 of Schedule 2;

5. thence north, coincident with the NSA, following 77°25'W longitude to a point at the intersection of 57°00'N latitude, southeast of the King George Islands and west of the Nastapoka Islands, for greater certainty being also point 11 of Schedule 1;

6. thence northwesterly, coincident with the NSA, to a point at the intersection of 57°40'N latitude and 78°00'W longitude, for greater certainty being also point 12 of Schedule 1;

7. thence north following 78°00'W longitude to a point at the intersection of 57°47'56"N latitude, for greater certainty being also point 13 of Schedule 1;

8. thence east following 57°47'56"N latitude, passing approximately one kilometer north of Cotter Island, as illustrated on Schedule 1c, to a point at the intersection with the boundary of Québec at approximate 76°58'45"W longitude, for greater certainty being also point 14 of Schedule 1;

   thence in a general southerly direction following the boundary of Québec to the point of commencement.

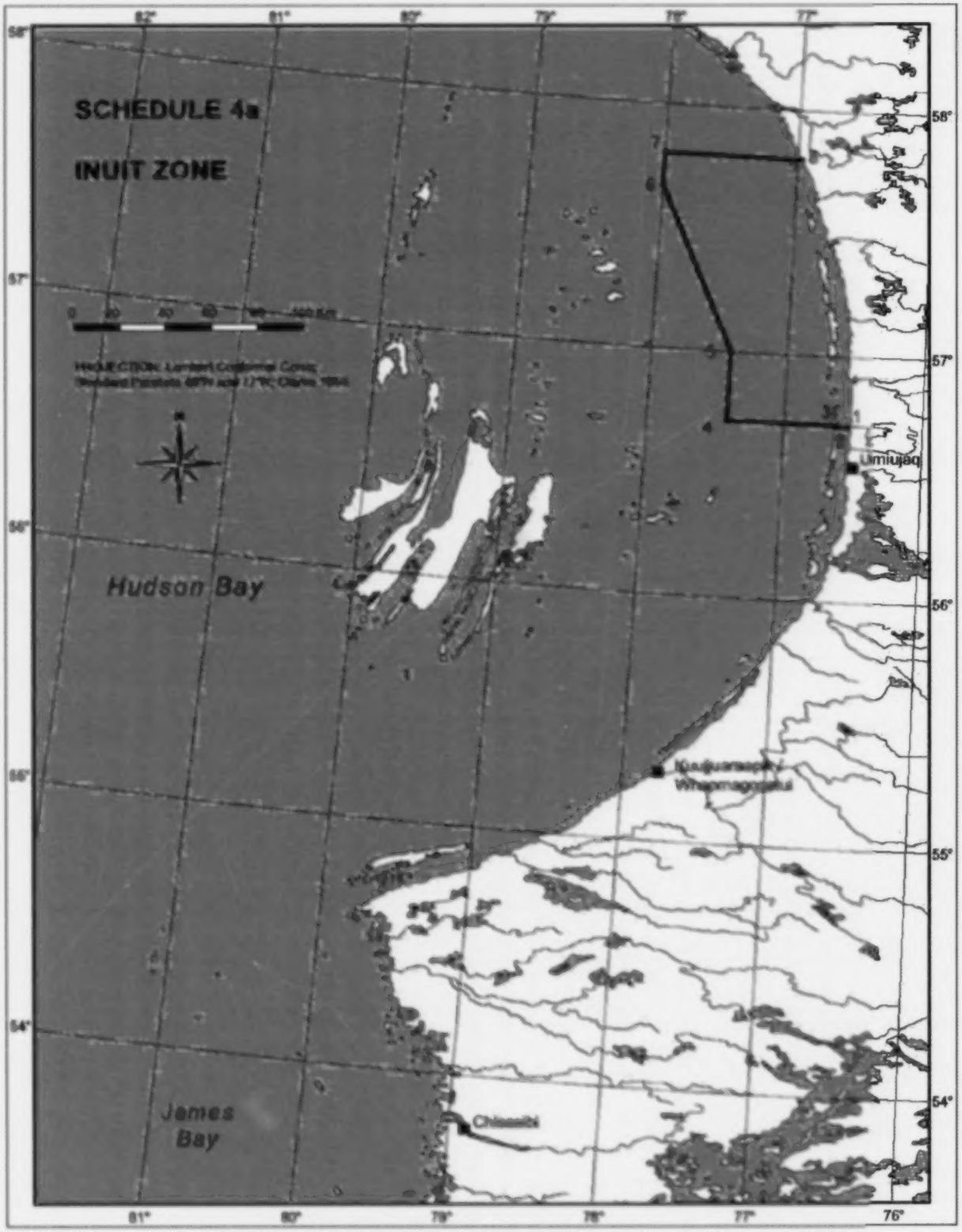
NOTES:

Where topographic descriptions conflict with geographic coordinates, the topographic descriptions reflect the intention of the parties, and shall prevail.

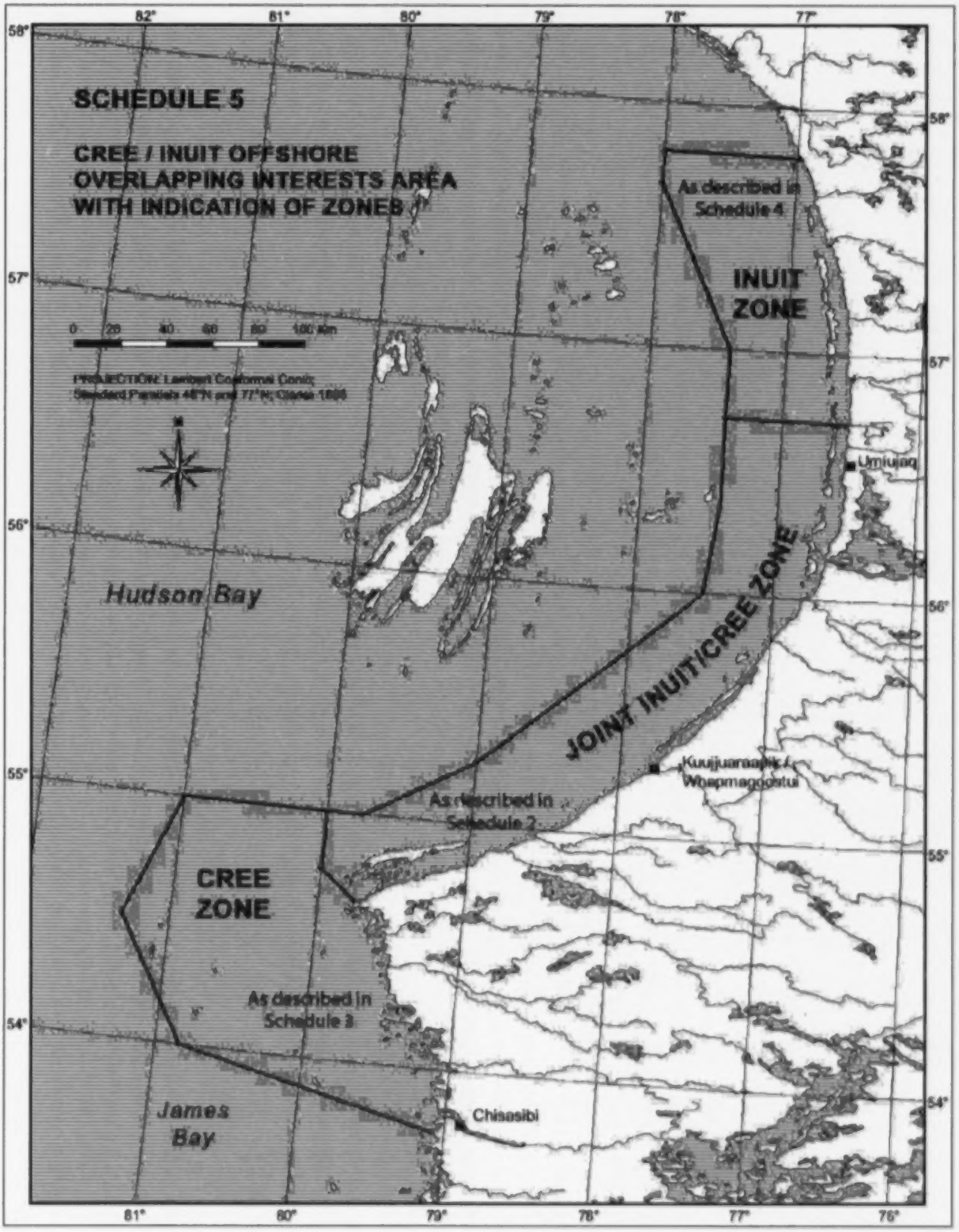
When the maps attached conflict with the geographic coordinates or topographic descriptions, the geographic coordinates or topographic descriptions reflect the intent of the parties and shall prevail.

All coordinates are in reference to North American Datum 1927(NAD 27).

SCHEDULE 4A - MAP "INUIT ZONE"


SCHEDULE 4a
INUIT ZONE
Hudson Bay
James Bay
Umiujaq
Kuujjuaraapik / Whapmagoostui
Chisasibi
82°
81°
80°
79°
78°
77°
76°
58°
57°
56°
55°
54°

SCHEDULE 5 -
MAP "CREE / INUIT OFFSHORE OVERLAPPING INTERESTS AREA WITH INDICATION OF ZONES"


SCHEDULE 5
CREE / INUIT OFFSHORE
OVERLAPPING INTERESTS AREA
WITH INDICATION OF ZONES
As described in Schedule 4
INUIT ZONE
0 20 40 60 80 100 km
PROJECTION: Lambert Conformal Conic
Standard Parallels 46°N and 77°N; Datum 1983
Umiujaq
Hudson Bay
JOINT INUIT/CREE ZONE
Kuujjuaraapik / Whapmagoostui
As described in Schedule 2
CREE ZONE
As described in Schedule 3
James Bay
Chisasibi
82°
81°
80°
79°
78°
77°
76°
58°
57°
56°
55°
54°

SCHEDULE 6 -
LANDS SELECTED BY
NUNAVIK INUIT IN THE CREE ZONE

As illustrated in Schedule 6a, the following lands are selected by Nunavik Inuit:

A. Grass Island (Aamishkushiiunikaach) of which the center is located at approximately 53°47'50"N latitude and approximate 79°06'40"W longitude; and

B. the lands bounded within the following coordinates:

1. 53°50'06"N latitude and 79°07'59"W longitude;
2. 53°50'13"N latitude and 79°04'11"W longitude;
3. 53°49'46"N latitude and 79°04'27"W longitude;
4. 53°49'40"N latitude and 79°05'00"W longitude;
5. 53°49'25"N latitude and 79°05'35"W longitude;
6. 53°49'31"N latitude and 79°07'20"W longitude;
7. 53°49'49"N latitude and 79°08'00"W longitude.

For greater certainty, included within the bounded area are the following named islands:

Governor Island: the center of which is located at approximately 53°49'45"N latitude and approximately 79°06'00"W longitude (locally known as Uchimaauminishtikw);

Sam Island: the center of which is located at approximately 53°50'00"N latitude and approximately 79°06'00"W longitude; and

Seal Islands: the center of which is located at approximately 53°49'45"N latitude and approximately 79°07'30"W longitude (locally known as Aahchikuminishtikw).

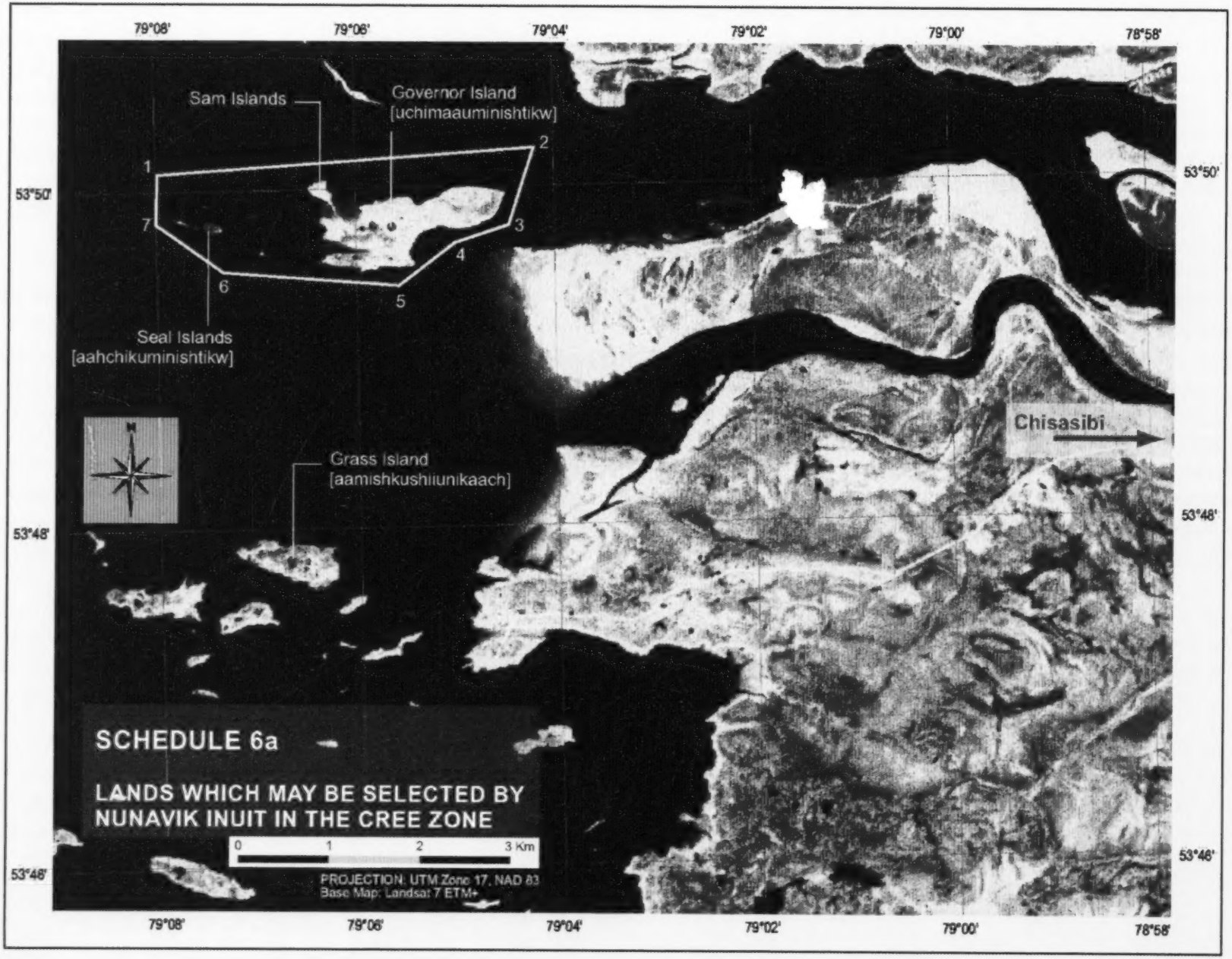
NOTES:

Where topographic descriptions conflict with geographic coordinates, the topographic descriptions reflect the intention of the parties, and shall prevail.

When the maps attached conflict with the geographic coordinates or topographic descriptions, the geographic coordinates or topographic descriptions reflect the intent of the parties and shall prevail.

All coordinates are in reference to North American Datum 1927(NAD 27).

SCHEDULE 6A -
MAP "LANDS SELECTED BY NUNAVIK INUIT IN THE CREE ZONE"


79°08'
79°06'
79°04'
79°02'
79°00'
78°58'
53°50'
53°48'
Sam Islands
Governor Island
[uchimaauminishtikw]
Seal Islands
[aahchikuminishtikw]
Grass Island
[aamishkushiiunikaach]
1
2
3
4
5
6
7
N
Chisasibi
SCHEDULE 6a
LANDS WHICH MAY BE SELECTED BY
NUNAVIK INUIT IN THE CREE ZONE
0
1
2
3 Km
PROJECTION: UTM Zone 17, NAD 83
Base Map: Landsat 7 ETM+

CHAPTER 31

DISPUTE RESOLUTION PROCESSES

PART A - MEDIATION PROCESS

31.1 General

The Parties agree to make every attempt through cooperation and Consultation to arrive at a mutually satisfactory resolution of disputes regarding the application, interpretation or implementation of this Agreement, including through the Implementation Committee pursuant to paragraph 25.4.3 d). To this end, the Parties may apply the mediation process established under Part A of this chapter to resolve such disputes prior to initiating proceedings before the Federal Court of Canada in regard thereto or, as the case may be, prior to Arbitration pursuant to Part B of this chapter.

Where a dispute concerns specifically the government of Nunavut, the government of Nunavut may initiate mediation under Part A of this chapter, or participate in the mediation process to the extent of its interest.

31.2 Preservation of Prescription Periods and Interim/Interlocutory Relief

Notwithstanding sections 31.1 and 31.9, nothing in this chapter prevents either Party from commencing judicial proceedings at any time:

a) to avoid the expiration of a limitation period or to suspend a limitation period; or

b) to obtain interlocutory or interim relief that is otherwise available pending treatment of the dispute under this chapter.

31.3 **Matters that may be Referred to Mediation**

Subsequent to unresolved discussions pursuant to section 31.1, the parties to a dispute acting jointly, may refer any dispute arising out of the interpretation, application or implementation of this Agreement to mediation under Part A of this chapter.

31.4 **Authorization of Representatives in Mediation**

The parties to a dispute shall make best efforts to name representatives for purposes of mediation who have sufficient authority to reach a resolution, or who have ready access to such authority.

31.5 **Mediation Notice**

31.5.1 A party to a dispute will initiate mediation in writing by sending to the other party a mediation notice which shall include:

a) the subject of the dispute;

b) the issue or issues requiring resolution;

c) a summary of the facts; and

d) the name(s) of its representative(s).

31.5.2 Within thirty (30) days of the receipt of a mediation notice, the receiving party shall identify in writing to the other party the name(s) of its representative(s).

31.5.3 If both parties initiate mediation jointly, the parties will confirm in writing the initiation of mediation, including:

a) the subject of the dispute;

b) the issue or issues requiring resolution;

c) a summary of the facts; and

d) the name(s) of their representative(s).

31.5.4 The written confirmation (herein "Written Confirmation of Mediation") will be deemed to be a mediation notice.

31.6 Selection or Appointment of Mediator

31.6.1 The parties agree to select individuals to act as mediators who are impartial, independent and free from conflict of interest relative to the matter in issue and have knowledge or experience to act in the appointed capacity.

31.6.2 The following process applies to the appointment of a mediator:

a) the parties shall attempt to agree on a mediator within thirty (30) days of receipt of the mediation notice or the written confirmation of mediation; and

b) where the parties do not agree upon a mediator, either of the parties, or the parties jointly, may apply to the Federal Court of Canada for the appointment of a mediator.

31.7 Mediation Process

31.7.1 Once a mediator is selected by the parties or appointed by the Federal Court of Canada, as the case may be, the mediation shall commence within twenty (20) days, unless the parties agree otherwise, and the parties shall participate thereafter in good faith in the mediation process.

31.7.2 The mediation shall conclude when a resolution of the issue in dispute is reached or when a party, the parties jointly, or the mediator delivers to the other mediation participant(s) a written statement that, in the opinion of the participant(s) making the statement, no resolution is likely to be reached through mediation.

31.7.3 Any agreement reached through mediation will be:

a) recorded in writing;

b) signed by representatives of the parties;

c) delivered to all participants in the mediation; and

d) binding only on the participants who have signed the agreement.

31.7.4 The mediator shall not issue a report or make any written recommendations.

31.7.5 Each party to a mediation shall bear its own costs in the mediation and the costs of the mediator shall be assumed by Canada.

31.8 Confidentiality of Mediation

31.8.1 The disclosure of information by a party in the course of any mediation under this chapter is not a waiver of any privilege by that party for purposes of any legal proceedings.

31.8.2 Unless the parties otherwise agree and subject to the *Access to Information Act*, R.S.C. 1985, c. A-1, the *Privacy Act*, R.S.C. 1985, c. P-21, the *Library and Archives of Canada Act*, S.C. 2004, c. 11, and any other applicable Legislation, information disclosed in mediation and not otherwise publicly available shall be kept confidential by all participants, including the mediator.

31.8.3 All communications at a mediation session and the mediator's notes and records shall be deemed to be without prejudice settlement discussions and are not admissible as evidence in any Arbitration under Part B of this chapter or in any legal proceedings before any court, board, commission or other tribunal.

31.8.4 Evidence that is independently admissible or discoverable in any legal proceedings before any court, board, commission or other tribunal, including any Arbitration under Part B of this chapter, shall not be rendered inadmissible or non-discoverable by virtue of its use during the mediation.

31.8.5 The parties agree not to call or compel the mediator to give evidence in any proceedings referenced in subsection 31.8.4 subsequent to the mediation.

PART B - ARBITRATION

31.9 The following matters shall be arbitrated pursuant to Part B of this chapter:

a) matters specifically designated in other chapters of this Agreement for resolution by Arbitration under Part B of this chapter; or

b) where GCC(EI) and Government mutually agree to be bound by an Arbitration decision, any other matters arising from this Agreement including, without limiting the generality of the foregoing, any matter concerning the interpretation, application or implementation of this Agreement.

31.10 No Arbitration decision made pursuant to Part B of this chapter may alter, amend, delete or substitute any provision of this Agreement in any manner.

31.11 An Arbitration shall be initiated by a party to a dispute serving written notice to the other party to the dispute, which notice shall set out the nature of the dispute, a summary of the facts, describe the issue to be arbitrated, name an arbitrator and describe the relief sought.

31.12 Within thirty (30) days of receipt of a notice referred to in section 31.11, the other party to the dispute shall reply to the notice, naming its arbitrator and describing any relief sought.

31.13 The two arbitrators named under sections 31.11 and 31.12 shall agree upon a third arbitrator. Failing such agreement the third arbitrator shall be appointed by a judge of the Federal Court of Canada and in such case the judge may appoint anyone as the judge sees fit.

31.14 The Arbitrators may, on application, allow any Person to participate, on such terms as the Arbitrators in their discretion may order, in an Arbitration as an intervener, if in their opinion the interest of that Person may be affected by the Arbitration. Intervenors shall bear their own costs.

31.15 The Arbitrators shall have jurisdiction, after hearing the parties to the Arbitration, to determine all questions of fact and procedure, including the method of giving evidence, and to make an award, including interim relief, payment of interest, and costs.

31.16 It is intended that the process of Arbitration established by Part B of this chapter will resolve disputes submitted to it in an informal and expeditious manner.

31.17 The Arbitrators shall proceed to arbitrate a dispute within forty-five (45) days of the agreement on or the appointment of the third arbitrator or within such longer period as the parties to the Arbitration may agree.

31.18 If the Arbitrators make no decision as to costs, each party to an Arbitration shall bear its own costs and its proportionate share of the other costs of the Arbitration, including the remuneration and expenses of the Arbitrators.

31.19 In the absence of a majority decision, the decision of the third arbitrator referred to in section 31.13 shall prevail.

31.20 The decision of the Arbitrators shall be final and binding on the parties to the Arbitration and shall not be subject to appeal or review in any court except that the decision may be reviewed by the Federal Court of Canada on the grounds that the Arbitrators erred in law or exceeded or refused to exercise their jurisdiction.

31.21 The Arbitrators shall determine the rules and procedures for the Arbitration.

31.22 The GCC(EI) and Government shall maintain a public record of Arbitration decisions.

31.23 Where a party to an Arbitration has failed to comply with any of the terms of an Arbitration decision, any party to the Arbitration may file in the office of the Registrar of the Federal Court of Canada or the Nunavut Court of Justice, a copy of the decision, exclusive of the reasons therefore, in the prescribed form, whereupon the decision shall be entered in the same way as a judgment or order of that court and is enforceable as such.

31.24 A party to an Arbitration may request from the Federal Court of Canada or the Nunavut Court of Justice, either before or during arbitral proceedings, an interim measure of protection and the Court may grant such a measure.

31.25 Unless otherwise specified in an Arbitration decision, the effective date of the decision is the date on which the decision is released in writing. The decision shall be released with reasons.

31.26 Except in respect of disputes arbitrated under Part B of this chapter, nothing in this chapter affects the jurisdiction of any court.

CHAPTER 32

RATIFICATION PROCEDURES FOR THIS AGREEMENT

32.1 This Agreement shall be submitted for ratification by the Parties as set out in this chapter only after it has been initialed by the Negotiators for the GCC(EI) and Government.

32.2 This Agreement shall be ratified by the Crees prior to ratification by Canada.

32.3 The Crees shall be considered to have ratified this Agreement when:

a) a majority of all eligible Cree voters by way of the Cree ratification vote approve this Agreement; and

b) the duly appointed and authorized officers of the GCC(EI) sign this Agreement.

32.4 Canada shall be considered to have ratified this Agreement when:

a) this Agreement is signed by a Minister of the Crown; and

b) an act ratifying and giving effect to this Agreement is enacted by Parliament and comes into force.

32.5 The process for the Cree ratification vote is set out in Schedule 32-1.

32.6 The funding for the Cree ratification vote shall be provided by Canada. The Referendum Committee as established pursuant to Schedule 32-1 shall prepare a budget, subject to review and approval by the Department of Indian Affairs and Northern Development for its operation and the Cree ratification vote including, for greater certainty, funding for the development of an eligible voters list.

32.7 Following the signing of this Agreement by the Parties, and upon Consultation with the GCC(EI), Canada shall present this Agreement to Parliament, and propose the enactment of the ratification act. The proposed act shall:

a) contain a clear statement that this Agreement is ratified, approved, given effect and declared valid;

b) provide that this Agreement is binding on third parties;

c) state that where there is an inconsistency or conflict between the ratification act or any other Legislation and this Agreement, this Agreement prevails;

d) state that, in the event of an inconsistency or conflict between the ratification act and any other Legislation, the ratification act prevails to the extent of the inconsistency or conflict;

e) authorize the payment out of the Consolidated Revenue Fund of such sums as may be required to meet the monetary obligations of Her Majesty under Chapter 13, Chapter 22, Chapter 23 and Chapter 25 of this Agreement ;

f) provide that judicial notice shall be taken of this Agreement;

g) provide that if, in any judicial or administrative proceeding, an issue arises in respect of the interpretation or validity of this Agreement or the ratification act, the issue shall not be decided unless the party raising the issue has served notice on Canada and the GCC(EI); and

h) provide that the ratification act is binding on the Crown in right of Canada or in right of a province.

SCHEDULE 32-1

PROCEDURES CONCERNING THE REFERENDUM FOR APPROVING THE AGREEMENT

1) DEFINITIONS

In this schedule:

« *Président du scrutin référendaire* »	"***Chief Referendum Officer***" means an individual appointed by the Referendum Committee under Section 3 of this Schedule;
« *Électeurs admissibles* »	"***Eligible Voter***" means an individual who is eligible to vote in the Referendum pursuant to Section 4 of this Schedule;
« *Procédures* »	"***Procedures***" means the present procedures for approving this Agreement, as well as the rules developed and adopted by the Referendum Committee;
« *Référendum* »	"***Referendum***": means the ratification vote pursuant to paragraph 32.3 a) of this Agreement;
« *Comité référendaire* »	"***Referendum Committee***" means the committee established under Section 3 of this Schedule;
« *Processus référendaire* »	"***Referendum Process***" means the process defined at Section 2 of this Schedule;

2) REFERENDUM PROCESS

A Referendum Process is hereby established pursuant to section 32.5 of this Agreement.

The Referendum Process includes, but is not limited to the appointment of a Referendum Committee, the conduct of the Referendum, the vote counting and the review of vote results if necessary.

3) REFERENDUM COMMITTEE

Upon agreement of the Parties and at the latest upon initialling of this Agreement, a Referendum Committee shall be established for the duration of the Referendum Process to supervise and conduct the Referendum among Eligible Voters.

The Referendum Committee shall consist of four (4) members:

- Two (2) members appointed by the Negotiator for the Crees;
- Two (2) members appointed by the Negotiator for Canada.

Any dispute resulting in a deadlock shall be resolved by the Negotiators.

The Referendum Committee shall adopt any rules and take all necessary measures regarding the conduct of a fair, inclusive, transparent, open and democratic Referendum. Without limiting the generality of the foregoing, the Referendum Committee shall:

- Adopt the rules for the holding of the Referendum, including the Referendum period, the Referendum polling period, ballot and ballot-box requirements, the polling station voting procedures, the mail-in ballot procedures and the roving polls procedures, and the process for conducting any review of Referendum vote results under Section 8 of these Procedures;
- Set qualifications for, and appoint a Chief Referendum Officer and all the necessary personnel for the holding of the Referendum; and
- Determine the mandate of the Chief Referendum Officer and, where appropriate, of any personnel hired for the holding of the Referendum.

Rules adopted by the Referendum Committee shall be read together with these Procedures and, in case of inconsistency or conflict between these Procedures and the Rules adopted by the Referendum Committee, these Procedures shall prevail to the extent of the inconsistency or conflict.

4) ELIGIBLE VOTERS

For the purpose of the Referendum, to be an Eligible Voter, an individual must meet all of the following conditions:

- The name of the individual must appear on the Register of Cree beneficiaries maintained by Québec pursuant to subsection 3.5 of the JBNQA; and
- The individual must be at least 18 years of age on the last day determined by the Referendum Committee that voting can take place in the Referendum.

The Referendum Committee shall establish a timetable for the Chief Referendum Officer to obtain a copy of the Register of Cree beneficiaries maintained by Québec pursuant to subsection 3.5 of the JBNQA and to develop based thereon a list of all Eligible Voters, which shall include the names of all Cree beneficiaries who are 18 years of age or older on the last day determined by the Referendum Committee that voting can take place in the Referendum. The Referendum Committee shall establish rules requiring the Chief Referendum Officer to post

the list of Eligible Voters, which shall include a requirement to provide information on how and on what basis an individual may apply to have names added to or removed from the Register of Cree beneficiaries maintained by Québec pursuant to subsection 3.5 of the JBNQA.

5) NOTICE OF VOTE AND INFORMATION

The Referendum Committee shall take all reasonable steps necessary to ensure that all Eligible Voters have a reasonable opportunity to review this Agreement. The Referendum Committee shall develop and publish a notice of vote and shall ensure that an information package on this Agreement and on the Referendum Procedures is available. Particular attention shall be given to the need for information meetings in the Cree communities and the distribution of relevant materials to Eligible Voters, including at a minimum copies of or access to the text of this Agreement and a summary thereof, both of which shall be available in the English, French and Cree languages.

Nothing in these Procedures shall prevent the GCC(EI) from developing and distributing any other documents, or from making any representation, concerning all or any aspects of this Agreement.

6) VOTE

A vote by secret ballot shall be held among all Eligible Voters on the Referendum question defined as follows:

> Do you approve the proposed Agreement between the Crees of Eeyou Istchee and Her Majesty the Queen in Right of Canada concerning the Eeyou Marine Region?
>
> Yes ( )
>
> No ( )

The Referendum question shall be printed in Cree, English and French on the Referendum ballot.

7) CONDUCT OF THE VOTE

The Referendum Committee shall establish rules for the conduct of the vote, as well as for the tabulation of all ballots and for the announcement of the results of the Referendum vote.

The Referendum Committee shall provide for the possibility of voting at fixed polling stations, by mail (mail-in ballot) and by means of roving polls. Rules for the publicity and the conduct of votes at fixed polling stations, by mail-in ballots and at roving polls shall be adopted by the Referendum Committee.

The Referendum Committee shall ensure that the Referendum ballots are retained and shall document the principal events and decisions related to the Referendum, and shall make such documentation available to the GCC(EI) and to the Minister of Indian Affairs and Northern Development upon request of either one. Within six (6) months of the Referendum, the Referendum Committee shall ensure the transfer of all such documentation to the Library and Archives of Canada. The documentation shall not be disposed of, in whole or in part, without the prior written approval of both the GCC(EI) and of the Minister of Indian Affairs and Northern Development.

8) REVIEW OF VOTE RESULTS

Upon written application by at least fifteen (15) Eligible Voters no later than five (5) days after the public announcement of the Referendum vote results, the Referendum Committee may decide to hold a recount where the Referendum Committee believes that such a recount would be appropriate having regard to all the circumstances and particularly having regard to the fact of whether or not a recount could lead to a substantial modification of the results of the Referendum. The Referendum Committee may also decide to hold a recount at any time prior to this five (5) day delay, even in the absence of a written application from Eligible Voters, if the Referendum Committee deems it appropriate.

Fifteen (15) Eligible Voters or more may request a review of the Referendum by the Referendum Committee by forwarding a written and signed request to the Chief Referendum Officer by registered mail addressed to him or her at the address indicated on the Notice of Referendum within fifteen (15) days after the public announcement of the Referendum results, accompanied by a declaration, containing the grounds for requesting the review and other relevant information. The Referendum Committee may rule on the request in accordance with the criteria and authorities set out herein. The Chief Referendum Officer or any other individual designated by the Referendum Committee may investigate allegations at the request of the Referendum Committee where the Committee deems this appropriate, and report his or her findings to the Referendum Committee as soon as possible or in the timeframe set for these purposes by the Committee.

Where the Referendum Committee is of the opinion that there was a substantial violation of the Procedures that may have substantially affected the result of the Referendum vote; or where it is of the opinion that there was generalized corruption in connection with the holding of the Referendum which may have substantially affected the results of the Referendum vote, the Referendum Committee may issue a written report to the GCC(EI) and to the Minister of Indian Affairs and Northern Development questioning the validity of the Referendum and recommending appropriate corrective measures, including the holding of a new Referendum.

In the event the Referendum Committee cannot reach a conclusion regarding either a recount or whether there was a substantial violation of the Procedures or

generalized corruption which may have substantially affected the results of the Referendum vote as mentioned above, the Referendum Committee shall appoint a neutral individual to make such determination. In the event the Referendum Committee cannot decide on such individual within a delay of ten (10) days from the first request by a member of the Referendum Committee to appoint such a neutral individual, the Referendum Committee shall refer the matter to the Federal Court of Canada.

SIGNATORIES TO THE AGREEMENT

SIGNED at , on the day of , 20___.

FOR:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

On Behalf of the Government of Canada

The Honourable Chuck Strahl
Minister of Indian Affairs and
Northern Development

Mrs. Guylaine Ross
Federal Negotiator

On Behalf of the Government of Nunavut

The Honourable Eva Aariak
Premier of Nunavut

Mr. William MacKay
Negotiator, Government of Nunavut

FOR:

THE CREE OF EEYOU ISTCHEE

On Behalf of the Grand Council of the Crees (Eeyou Istchee)

Dr. Matthew Coon Come
Grand Chief of the Grand Council of the Crees (Eeyou Istchee)

Mr. Ashley Iserhoff
Deputy Grand Chief of the Grand Council of the Crees (Eeyou Istchee)

Mr. Roderick Pachano
Cree Negotiator